Provincial Court of
British Columbia

ANNUAL REPORT

2009 – 2010

Annual Report 2009 – 2010

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INTRODUCTION AND OVERVIEW OF THE 2009–2010 FISCAL YEAR

Farewell to the Chief Judge

It is with great sadness that the Court reports that Chief Judge Hugh Stansfield passed away on May 7, 2009, at the age of 57.

Hugh Campbell Stansfield was appointed on July 1, 2005, to a five-year term as Chief Judge of the Provincial Court of British Columbia.

After graduating from the University of British Columbia's law school in 1979, Judge Stansfield was called to the bar in 1980 and practiced in civil, family and criminal litigation. He was appointed to the Provincial Court on May 6, 1993. Judge Stansfield began his service in Vancouver but later moved to the Okanagan District. In 1998, he was appointed Associate Chief Judge and became a member of the Judicial Council in 2001.

Throughout his years on the Bench, Judge Stansfield presided in all three areas of Provincial Court jurisdiction: Civil, Family and Criminal. Judge Stansfield also served as chair of the Judges' Education Committee. He was a frequent presenter in judicial education both in BC and across Canada through the National Judicial Institute.

During his tenure, Chief Judge Stansfield was active in implementing innovative methods of delivering justice, including the recent opening of Vancouver's Downtown Community Court. Chief Judge Stansfield is also well known for improving media access to the Provincial Court. As the "face of the Court" in British Columbia, he made frequent and regular media appearances.

Caretaker Chief Judge for the Court

Associate Chief Judge James J. Threlfall stepped in and led the Court as Acting Chief Judge until a new Chief Judge could be appointed. The selection process for the appointment of a new Chief Judge began in the fall of 2009. The process involved advice to the Attorney General from an independent Advisory Panel. Panel members included the Acting Deputy Attorney General Jerry McHale, Q.C.; Kim Capri, a former Vancouver city councillor; Daryl Plecas, a professor in the department of criminology and social justice at the University College of the Fraser Valley; and Acting Chief Judge James Threlfall. The Advisory Panel reported on the candidates to the Attorney General, who then made a recommendation to Cabinet.

New Chief Judge of the Provincial Court

While his appointment did not take effect until April 8, 2010 (after the March 31, 2010 fiscal year end for the Court that is covered by this Report), the Court believes it important to introduce the public to the new Chief Judge of the Court, the Honourable Thomas James Crabtree.

Born in London, England, Judge Crabtree moved to Chilliwack at a young age and went on to graduate from Chilliwack Senior Secondary. He received his Bachelor of Arts degree from the University of British Columbia in 1978 and law degree from the University of Victoria in 1983. He was called to the BC bar in 1984. During his legal career he had a general practice in Chilliwack with an emphasis on litigation.

In 1999, Judge Crabtree was appointed to the Provincial Court bench. In 2000, he was assigned to the South Fraser District, based in Chilliwack, where he has heard cases in all divisions of the Court. Judge Crabtree has presided at the Provincial Court in over 30 different Court locations throughout the province, many of which are located in the interior and northern parts of the province.

During his time on the bench, Judge Crabtree has contributed to a number of committees of the Court, including: member of the Provincial Court Judges' Association of British Columbia's (PCJABC) Education Committee for approximately eight years; Chair of the Education Committee from 2004 to 2008; member of the Executive of the Judges' Association; Chair of the 2007 Joint Conference Education Committee; and Chair of the Education Review Committee. In addition, Judge Crabtree has participated in the Provincial Court Students' Journalism Program; the ad hoc Media Committee; and has been a Director and the Court's representative on the Board of the Continuing Legal Education Society of British Columbia.

Judge Crabtree has also spoken at and participated on a number of panels at judicial education conferences including: the New Judges Program at Lac Carling, Quebec; the International Conference on Training the Judiciary; the National Judicial Institute; the Provincial Court of BC judges' conferences; and Judicial Justices' conferences. He has also been involved at the Elder College at the University of the Fraser Valley; the Moot Court project at UBC Law School; a Moot Court program involving a local Chilliwack high school; and as a guest speaker to various community organizations.

Judge Crabtree is married and has two adult children.

Problem-Solving Courts

The Court has continued its focus on developing "problem-solving" courts to address areas of need throughout the province.

First Nations Court in New Westminster has provided a holistic approach to sentencing aboriginal offenders with the assistance of many dedicated staff and volunteers and with no new resources for the past three years. The Court has received numerous requests to expand the delivery of these services to aboriginal communities elsewhere in the province.

The Downtown Community Court in Vancouver continues to involve community agencies in a collaborative approach to solving low-level offences and minor street crimes in the Downtown Eastside area of Vancouver.

The Victoria Integrated Court opened in March 2010 and provides a team-based approach to justice and community services for those chronic offenders who are homeless and addicted to substances and/or are mentally disordered. The Integrated Court has been visited by interested parties and organizations representing criminal justice participants from across the province and elsewhere in Canada.

The Domestic Violence initiative in Duncan is a new initiative of the Court that seeks to provide a swift response to issues of domestic violence in the Cowichan Valley.

Impact of the Olympics on Court Operations

The Court was fully engaged with the provincial government, City of Vancouver, Olympic planning officials and other justice system participants in planning for and delivering justice services throughout the Olympic time frame. Because of the extensive planning that went into preparing for the Olympics, the Court was able to reorganize the way cases were heard so that it could continue to deliver justice services without any undue delay arising from these events.

Education in the Court

The fiscal year 2009/10 was a busy year for the Court in terms of evaluating the delivery of judicial education to the members of the Court. In the fall of 2008, a Judicial Education Review Committee was appointed and tasked with analyzing the method and cost of delivering education to the judiciary and with making recommendations for change. The Committee's report on its activities is set out later in this Report.

Criminal Justice Reform

The criminal justice reform initiatives that were first piloted in 2008 continued and expanded to locations throughout the province in 2009 and 2010. These initiatives have streamlined the process for dealing with Criminal matters prior to trial. Judicial Case Managers have assumed new responsibilities at the front-end of the criminal justice process which, in turn, has freed up judges to preside over other matters.

New initiatives are being piloted in South Vancouver Island to further streamline the criminal justice system by permitting lawyers to "appear" electronically on some matters.

The use of video technology has increased in the Criminal division of the Court which, in turn, has provided greater efficiencies.

Video Bail / Bail Reform

- The Justice Centre continues to operate video bail pilot projects in the Peace Region (Fort St. John, Fort Nelson and Dawson Creek) as well as in the Lower Mainland (Surrey and Delta).
- The Peace Region pilot projects operate on weekdays and allow accused persons in police cells or those who are remanded to Prince George Regional Correctional Centre to appear by video conference technology for their bail hearing before a Judicial Justice at the Justice Centre in Burnaby. During these hearings, Crown counsel and duty counsel also appear by video conference from the local courthouse.
- The Surrey/Delta weekend pilot project has successfully concluded and has now been moved to the operational mode. Crown and duty counsel appear by video conference technology from the Surrey Courthouse, accused persons appear by video from either the Surrey RCMP detachment or Delta Police Department cells, and the Judicial Justice presides by video from the Justice Centre in Burnaby. During the week, the Judicial Justice at the Justice Centre presides over evening video bail hearings with the accused in the police cells and the Surrey and Delta police officers appearing on behalf of the Crown.

Civil

The Court's major initiative in reforming the delivery of civil justice continued throughout the year at Robson Square and in Richmond.

Family

The Court anticipates working with the Ministry of Attorney General to implement changes in the family law sector aimed at reducing conflict between parties, expediting decision-making in

contested matters and providing a more effective and efficient way of delivering judicial services to families.

Court Performance and Management

The Court continues to apply the performance measurement and management standards developed by the Court as reported in the Annual Report, 2006–2007. District Reviews have now been conducted in all but two districts of the Court using these standards. The results of the reviews have been carefully evaluated by the Executive Committee, and the Court identified serious issues around workloads and trends, which resulted in an in-depth study of the Court's need for judicial resources which will be discussed in the Court's Annual Report, 2010–2011.

As a result of the work the Court has undertaken in assessing the Court's performance and determining the level of resources required to deliver judicial services, the Court has developed new means of gathering data that allow for a better picture of the current situation. This Annual Report will provide data about the Court's performance and management that has been gathered utilizing these new information-gathering systems.

ADMINISTRATION

1. Executive Committee

The Executive Committee is chaired by the Chief Judge and includes the three Associate Chief Judges for the Court. The role of the Executive Committee is to provide strategic direction and decision-making for the Court on administrative and management matters as well as issues touching on the administrative independence of the Court. The Executive Committee consists of:

Chief Judge:

The Honourable Hugh C. Stansfield (appointed July 1, 2005, to a five-year term, died in office on May 7, 2009)

The Honourable Judge James J. Threlfall – Acting Chief Judge (May 7, 2009–April 6, 2010) (appointed June 2005 as an Associate Chief Judge for a term of five years and extended to October 31, 2010)

The Honourable Thomas J. Crabtree (appointed Chief Judge, effective April 8, 2010)

Associate Chief Judges:

The Honourable Judge Brian M. Neal (appointed July 2005 for a term of two years; reappointed August 1, 2007, for two years; and extended on February 27, 2009, until his election to senior judge status January 31, 2010)

The Honourable Nancy N. Phillips (appointed February 27, 2009, for a term of two years)

The Honourable Gurmail S. Gill (appointed February 27, 2009, for a term of two years)

2. Management Committee

The Management Committee of the Court consists of the Administrative Judges designated by the Chief Judge pursuant to section 10(3) of the *Provincial Court Act* and the Executive Committee. The Management Committee is chaired by the Chief Judge or his designate. The role of the Committee is to provide advice to the Chief Judge on emerging issues in judicial districts, policy proposals and administrative matters.

The Management Committee for 2009–2010 consists of the Executive Committee and the following:

Associate Chief Judge N. N. Phillips (Administrative Judge – Kootenay District) (Chair)
Associate Chief Judge G. Gill (A/Administrative Judge – North Fraser District)
Administrative Judge D. O'Byrne (Cariboo Northeast District)
Administrative Judge H. Seidemann III (North West District)
Administrative Judge A. Dohm (North Vancouver Island District)
Administrative Judge J. Watchuk (Vancouver Criminal District)
Administrative Judge P. Gulbransen (South Fraser District)
Administrative Judge W. Rodgers (Coast District)
Administrative Judge A. Ehrcke (Robson Square District)
Administrative Judge E. Quantz (South Vancouver Island)
Administrative Judge E. Burdett (Okanagan District)
Administrative Judge S. Frame (Kamloops District)

3. Traffic Court and Justice Centre

The Court continued with two Administrative Judicial Justices.

Judicial Justice J. Arntsen had responsibility as the Administrative Judicial Justice for the Traffic Court Division and Judicial Justice P. Schwartz continued as the Administrative Judicial Justice responsible for the Justice Centre.

THE JURISDICTION OF THE PROVINCIAL COURT

1. The Scope of the Court's Authority

The Provincial Court of British Columbia is one of two trial courts in the province; the other being the Supreme Court of British Columbia.

The Provincial Court's caseload encompasses the following primary subject areas: Adult Criminal, Youth, Civil, Family, Traffic and Bylaw.

Appeals from Provincial Court decisions go to either the Supreme Court of British Columbia or the BC Court of Appeal, depending upon the nature of the case. Appeals on some Provincial Court cases may be taken to the Supreme Court of Canada, following the decision of the Court of Appeal.

The statutes listed below are the principal ones in which the Court has jurisdiction. Under some of these enactments, jurisdiction is shared with the Supreme Court or split between the Provincial Court and Supreme Court.

Federal Statutes:	**Provincial Statutes:**	
· *Criminal Code*	· *Adult Guardianship Act*	· *Mental Health Act*
· *Youth Criminal Justice Act*	· *Child, Family and Community Service Act*	· *Motor Vehicle Act*
· *Controlled Drugs and Substances Act*	· *Commercial Transport Act*	· *Offence Act*
· *Firearms Act*	· *Court Order Enforcement Act*	· *Passenger Transportation Act*
· *Income Tax Act*	· *Environmental Management Act*	· *Small Claims Act*
· *Fisheries Act*	· *Family Relations Act*	· *Waste Management Act*
· *Contraventions Act*	· *Family Maintenance Enforcement Act*	· *Wildlife Act*
	· *Health Act*	. *Workers Compensation Act*
	· *Liquor Control and Licensing Act*	· *Youth Justice Act*
	· *Community Charter and Local Government Act (Bylaw Offences)*	
	· *Interjurisdictional Support Orders Act*	

The Provincial Court's jurisdiction extends to all criminal matters except a limited few over which the Supreme Court has exclusive jurisdiction. These are listed in s. 469 of the *Criminal Code* (such as murder, treason, piracy and alarming her Majesty). For these matters, any preliminary inquiry would be held in the Provincial Court, before the Supreme Court trial.

The Provincial Court does not conduct jury trials. The Court has exclusive jurisdiction in all summary conviction trials and hears all indictable matters where the accused does not elect to have their matter heard by way of a jury trial or before a Supreme Court Judge.

2. Legislative Changes

A. Federal

On October 2, 2009, amendments to the *Criminal Code* in *An Act to Amend the Criminal Code (Organized Crime and Protection of Justice System Participants)*, S.C. 2009, c. 22, came into force. The amendments created new offences related to weapons, as well as made murder first degree, irrespective of whether it is planned and deliberate, when it occurs in connection with terrorist activity, at the direction of, or in association with, a criminal organization, or while committing an offence related to intimidation of a justice system participant or journalist.

On January 8, 2010, *An Act to Amend the Criminal Code (Identity Theft and Related Misconduct)*, S.C. 2009, c. 28, came into force. The legislation created a number of new offences related to identity theft and identity fraud. In addition, the amendments allow for a restitution order related to the expenses incurred to re-establish a victim's identity.

On February 22, 2010, *An Act to Amend the Criminal Code (Limiting Credit for Time Spent in Pre-sentencing Custody)*, S.C. 2009, c. 29, came into force. The legislation limits credit for pre-sentence custody to one day for each day spent in custody unless the circumstances justify a maximum of one and a half days for each day spent in custody. The one and a half day credit is not available if, for instance, the person was detained in custody pending trial primarily because of a previous conviction. The provisions apply only to persons charged after the day on which the provisions came into force.

B. Provincial

The *Motor Vehicle (Banning Smoking when Children Present) Amendment Act*, 2008, was brought into force on April 7, 2009. The legislation requires that a person not smoke in a motor vehicle that is occupied by a person under the age of 16.

On July 31, 2009, amendments to the *Motor Vehicle Act*, R.S.B.C. 1996, c. 318, were brought into force under the *Public Safety and Solicitor General Statutes Amendment Act, 2009*, S.B.C. 2009, c. 10, s. 2(b) and s. 10 to s. 14. These amendments relate to the definition of "motor vehicle-related *Criminal Code* offence" under the *Motor Vehicle Act*, as well as transition provisions related to, for instance, the ability of the Insurance Corporation of British Columbia to refuse to issue a driver's licence for failure to pay a fine.

On October 29, 2009, the *Strata Property Amendment Act*, 2009, S.B.C. 2009, c. 17, received Royal Assent. A number of provisions of the Act came into force on December 11, 2009. However, these did not include sections 10 and 25, which will provide the Provincial Court with parallel jurisdiction on a variety of strata property matters as currently held by the Supreme Court of British Columbia.

On October 29, 2009, the *Miscellaneous Statutes Amendment Act*, 2009, S.B.C. 2009, c. 22, received Royal Assent, thus bringing into force sections 53 to 55 of the Act, which amend the *Judicial Compensation Act*. These amendments change the composition and criteria for those who may sit as members of a judicial compensation commission.

On January 1, 2010, amendments to the British Columbia *Motor Vehicle Act* were brought into force regarding the use of electronic devices while driving (*Motor Vehicle Amendment Act*, 2009, S.B.C. 2009, c. 23). The legislation and regulations relate to use of electronic devices, such as cell phones, while driving.

On January 14, 2010, amendments to the *Offence Act*, R.S.B.C. 1996, c. 338, were brought into force under the *Attorney General Statutes Amendment Act*, 2007, S.B.C. 2007, c. 14, s. 51(b), s. 52 and s. 54(a). The amendments relate to service of violation tickets, including service outside of British Columbia.

On March 31, 2010, amendments to the *Child, Family and Community Service Act*, R.S.B.C. 1996, c. 46, came into effect pursuant to the *Miscellaneous Statutes Amendment Act*, 2010, S.B.C. 2010, c. 3. Section 10 of the *Amendment Act* amends s. 97 of the *Child, Family and Community Service Act* regarding parental responsibility to contribute to the maintenance of a child.

THE PROVINCIAL COURT'S CASELOAD

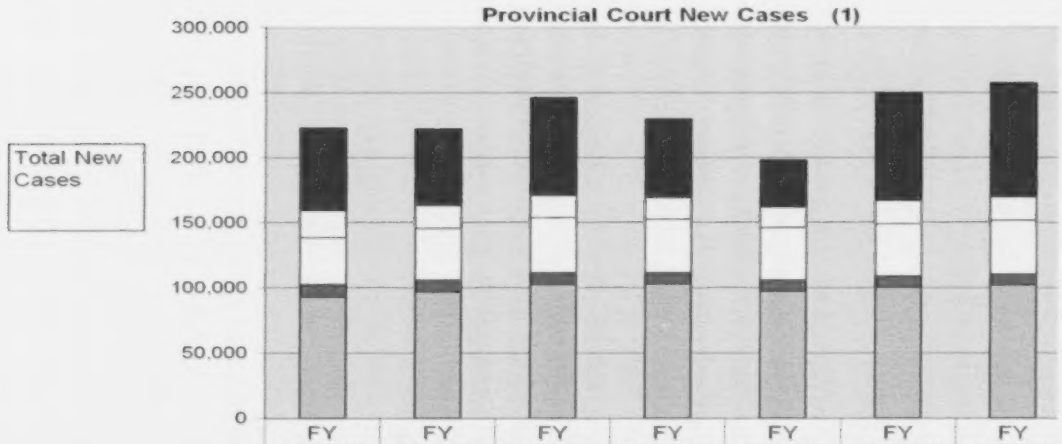
During the fiscal year 2009/10, the Provincial Court received 257,147 new cases. This included Adult Criminal, Youth, Civil, Family (including subsequent Family applications), Traffic and Bylaw cases.

During this fiscal year, approximately 43% of the Provincial Court's caseload was Criminal and Youth matters, 34% was Traffic and Bylaw matters and 23% was Family and Civil. This fiscal year saw an approximate 1.5% increase in the number of new Adult Criminal matters filed over the previous fiscal year.

Our data regarding new Traffic cases includes only those that were entered into the JUSTIN case tracking system by Court Services Branch staff of the Ministry of Attorney General during the fiscal year. In the 2007/08 fiscal year there were many delays in processing this data, resulting in a lower count of new Traffic cases. In 2008/09 there was a substantial increase in the data entry by Court Services Branch, resulting in a larger number of Traffic cases appearing as "new cases."

The number of new Family and Civil (Small Claims) cases increased for the third consecutive fiscal year

The following charts show comparative caseloads for new cases for the current and previous years, by subject.



	FY 2003/04	FY 2004/05	FY 2005/06	FY 2006/07	FY 2007/08	FY 2008/09	FY 2009/10
Traffic/Bylaw	63,345	58,639	74,940	60,260	36,060	82,663	87,567
Civil Small Claims	20,693	17,853	17,138	16,769	16,252	17,887	18,064
Family (Includes FRA, FMEA, CFCSA and Subsequent Applications)	35,942	39,355	42,385	40,702	39,641	40,109	41,554
Youth	9,715	8,990	8,991	8,650	8,754	8,550	8,097
Adult Criminal	92,801	96,861	102,374	102,830	97,227	100,341	101,865

Data Source: CORIN Database

(1) Provincial Court Criminal New Case: One accused person with one or more charges on an Information or initiating document that has resulted in a first appearance in Provincial Court. These charges can be *Criminal Code*, *Young Criminal Justice Act*, other federal statutes or provincial statutes. This does not include Traffic or municipal bylaw.

Provincial Court Small Claims New Case: The number of Notices of Claim filed in the Court registry.

Provincial Court Child Protection and Family New Cases: A Provincial Court *Family Relations Act* (FRA), *Family Maintenance Enforcement Act* (FMEA), *Family and Child Services Act* (FCSA), and *Child, Family and Community Services Act* (CFCSA) registry filing. Prior to August 1994, new cases included an initial filing and any subsequent applications requiring an appearance. Since August 1994, new cases only include initial filings.

Trial, Hearing and Conference Delays

The Provincial Court continues to track backlog through quarterly surveys of the "next available trial date" per district by subject matter. This represents the average wait for trial based on the delay between the setting of a case and the first date that the Court is available to hear the trial.

The Next Available Trial Date Survey was completed on March 31, 2010. The Provincial Court continues to experience an increase in delays in many Court locations of the province. The Court is also experiencing an increase in delay for all lengthy cases (i.e., those which require two days or longer of court time to hear).

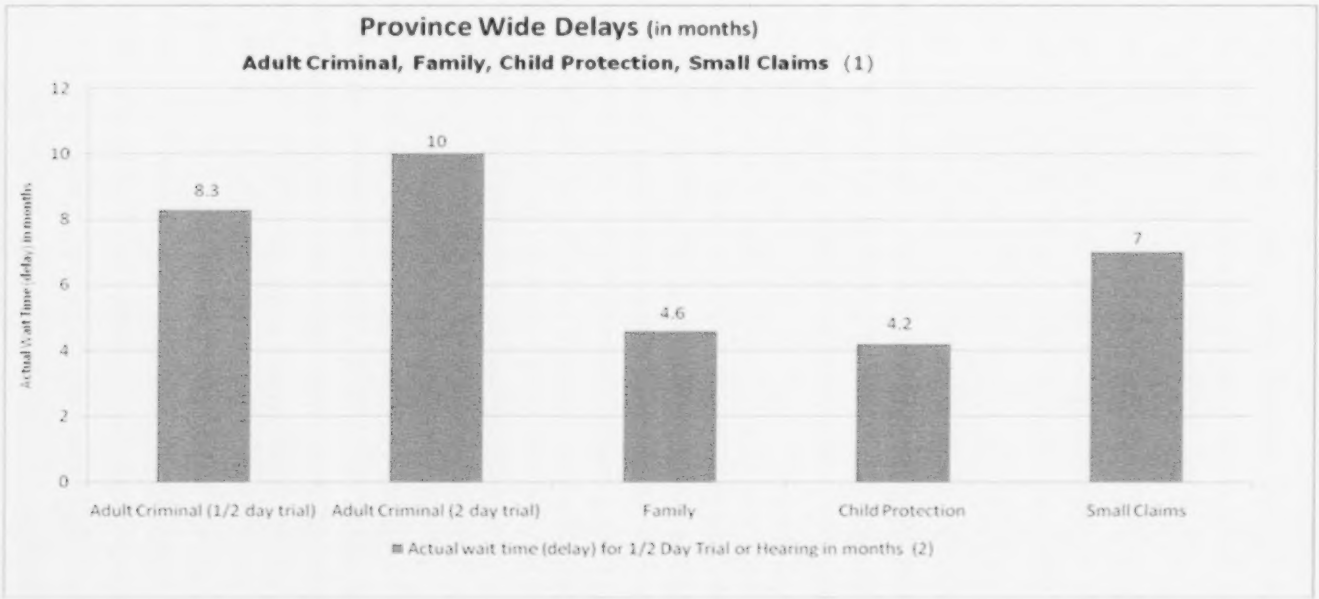
While a variety of challenges may result in backlogs developing, the one consistent pressure is the delay in receiving judicial appointments to fill vacancies. These backlogs will be continually monitored and assessed during the next year.

The Management Committee has endorsed a number of Court performance measures and set standards for the Court in the following areas: time to trial for half-day Adult Criminal trials (90% within 6 months); time to trials to two-day Adult Criminal trials (90% are to be heard within 8 months); time to trial for Youth matters (90% are to be heard within 2 months); time to trials for Small Claims actions (90% are to be heard within 4 months); time to hearing for Child Protection matters (90% are to be heard within 3 months); and Family hearings (90% are to be heard within 4 months).

The following chart identifies the province-wide weighted average of delays to trial for Adult Criminal, Family, Child Protection and Small Claims as at March 31, 2010. For Family and Small Claims cases, this does not include the delay to a Family case conference or Small Claims settlement conference which, for the most part, precedes any trial dates.

As of March 31, 2010, the province-wide weighted average delay to a Family case conference was 3.4 months, while the delay to a Small Claims settlement conference was 3.9 months.

Province-wide Delays as of March 31, 2010



Notes:

(1) Data Source: Judicial (Quarterly) Next Available Date Surveys.
All locations in the province were weighted based on 2009/10 new caseloads as a percentage of the provincial total. All delays were calculated as at March 31, 2010.

(2) For Adult Criminal trials, this number represents the number of months between an Arraignment Hearing/Fix Date and the first available court date that a typical half-day or two-day Adult Criminal trial can be scheduled into. For Family trials, this number represents the number of months between a Case Conference or Fix Date and the first available court date that a typical half-day Family trial or hearing can be scheduled into. For Child Protection trials, this number represents the number of months between a Case Conference/Fix Date and the first available court date that a typical half-day Child Protection case can be scheduled into. For Small Claims settlement conferences, this number represents the number of months between the filing of the reply to the first available court date that a typical settlement conference can be scheduled into.

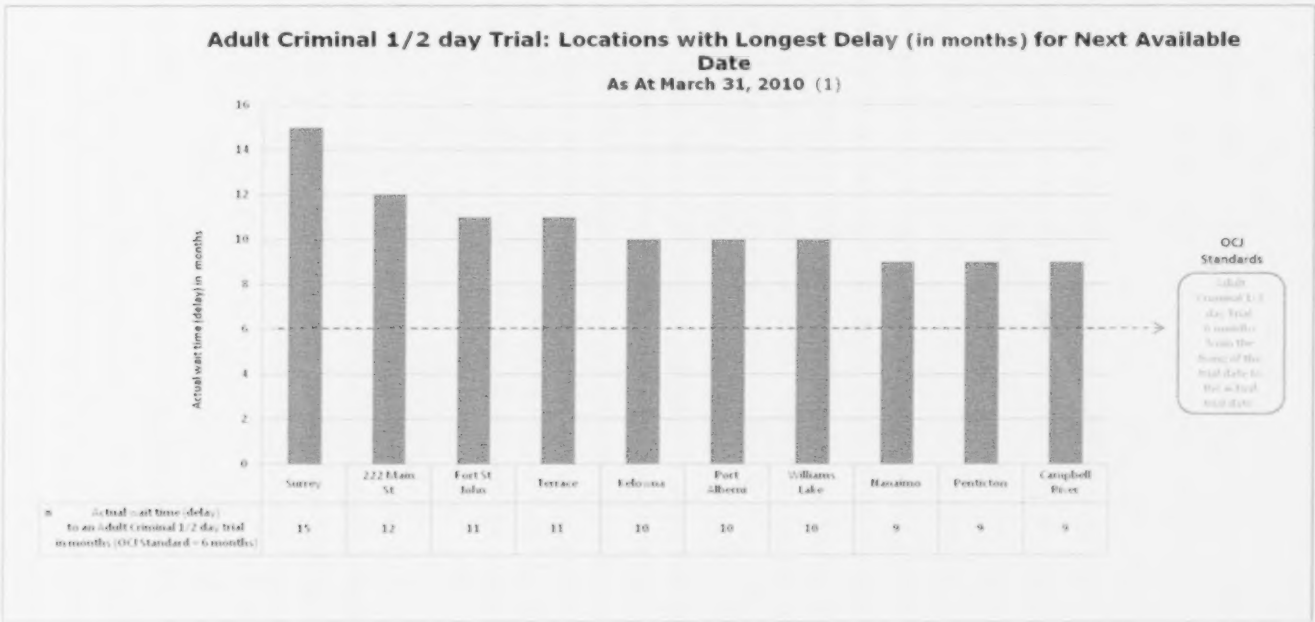
The "first available date" does not include a court date that has opened up due to cancellations, since that is not when the Court would "normally" be scheduling matters in the future. This wait time also takes into account any cases awaiting a trial date to be scheduled and factors those matters into any delay estimates.

Delays by Area of Jurisdiction

There are a number of Court locations around the province where the cases waiting to be heard significantly exceed the Court's standards for scheduling. Those locations are identified by type of case below.

Adult Criminal ½ day Trials

The following chart identifies the top 10 locations where the number of Criminal cases pending trial exceeds the Court's standards.



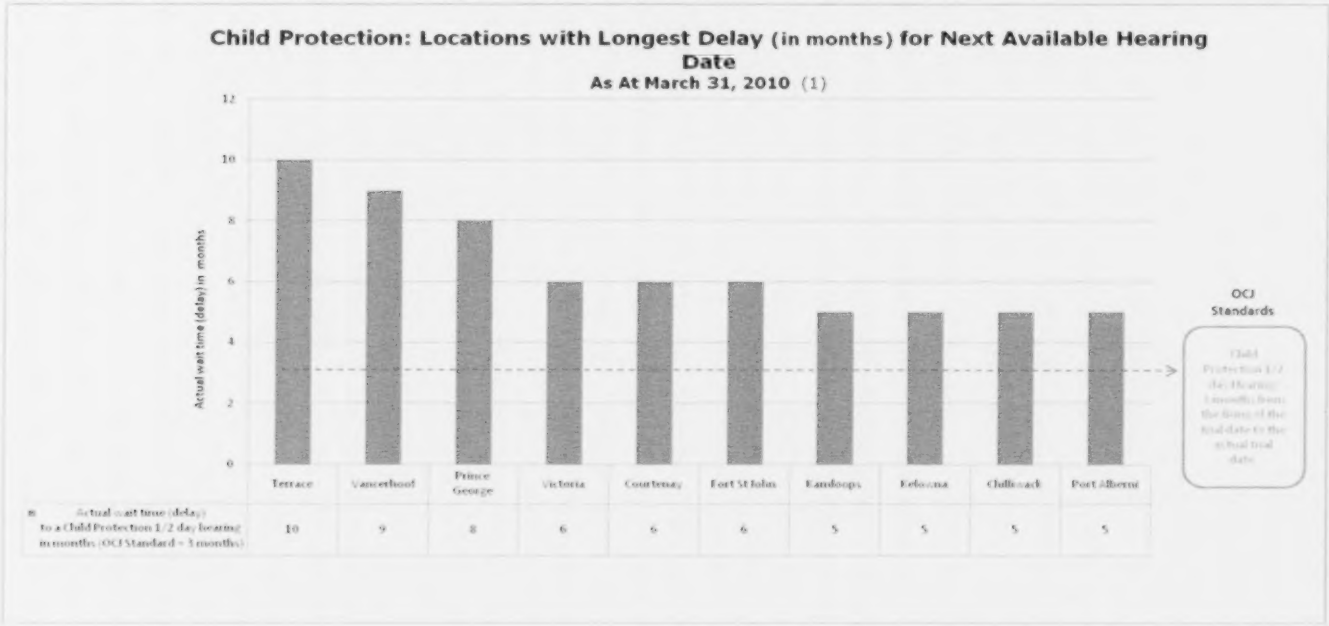
Notes:

Data Source: Judicial (Quarterly) Next Available Date Surveys.

(1) For Adult Criminal trials, this number represents the number of months between an Arraignment Hearing/Fix Date and the first available court date that a typical half-day Adult Criminal trial can be scheduled into. The "first available date" does not include court dates that have opened up due to cancellations, since that are not when the Court would "normally" be scheduling matters in the future. This wait time also takes into account any trials or hearings awaiting a trial date to be scheduled and factors those matters into any delay estimates.

Child Protection ½ day Hearings

There are a number of locations where Child Protection cases pending hearing significantly exceed the Court's standards for scheduling. The following chart identifies the top 10 locations which exceed these standards.



Notes:

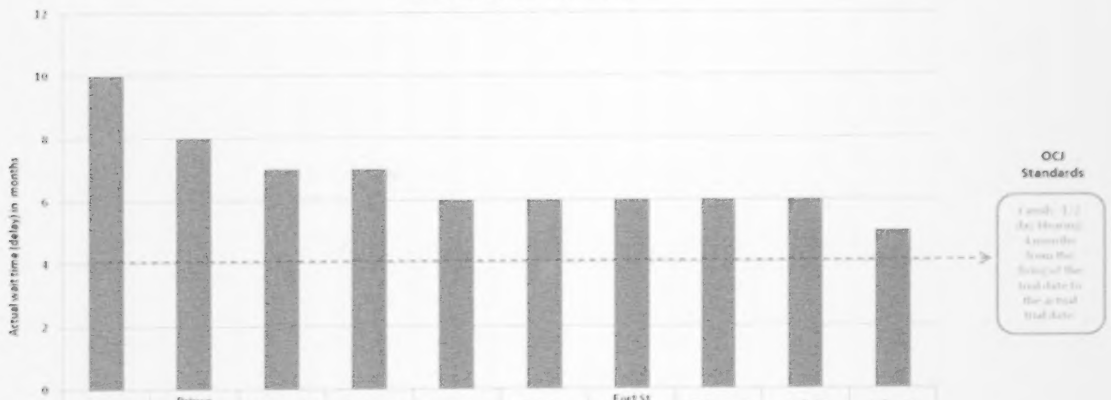
Data Source: Judicial (Quarterly) Next Available Date Surveys. For Child Protection trials, this number represents the number of months between a Case Conference/Fix Date and the first available court date that a typical half-day Child Protection trial or hearing can be scheduled into.

The "first available date" does not include court dates that have opened up due to cancellations, since those are not when the Court would "normally" be scheduling matters in the future. This wait time also takes into account any trials or hearings awaiting a trial date to be scheduled and factors those matters into any delay estimates.

Family ½ day Hearings

There are a number of locations where Family cases pending hearing significantly exceed the Court's standards for scheduling. The following chart identifies the top 10 locations which exceed these standards.

Family: Locations with Longest Delay (in months) for Next Available Hearing Date
As At March 31, 2010 (1)



	Terrace	Prince George	Chilliwack	Penticton	Victoria	Courtenay	Fort St John	Richmond	Sechelt	Kelowna
Actual wait time (delay) to a Family 1/2 day hearing in months (OCJ Standard = 4 months)	10	8	7	7	6	6	6	6	6	5

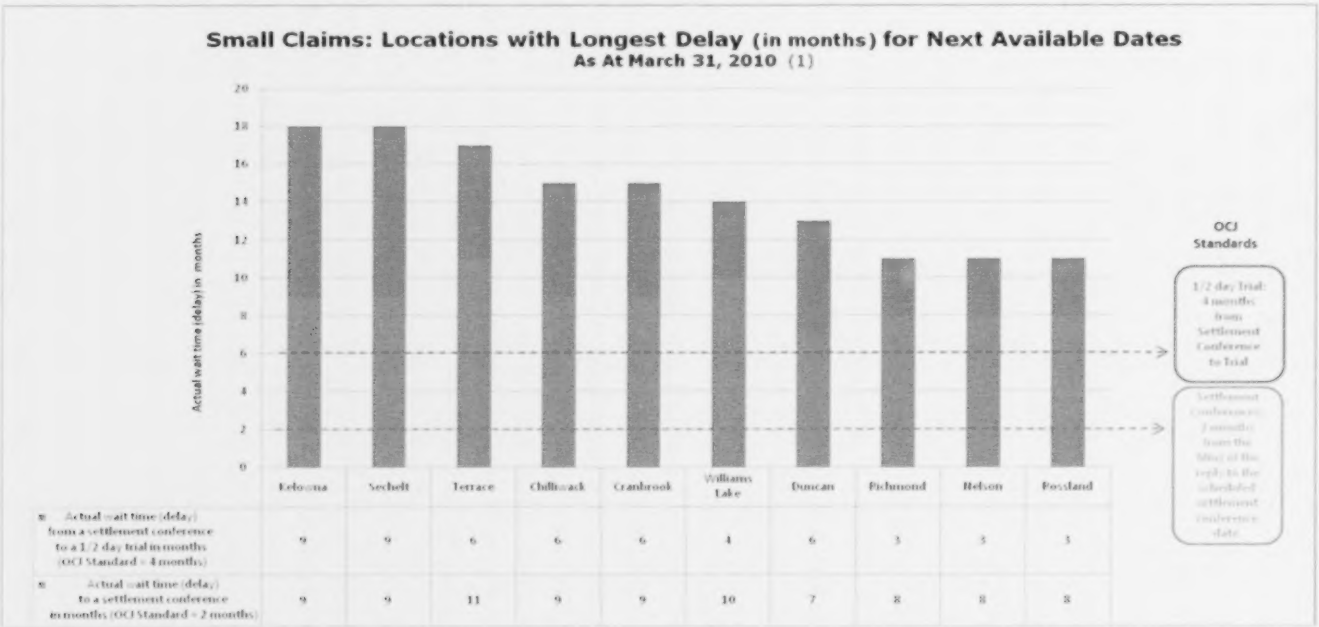
Notes:

Data Source: Judicial (Quarterly) Next Available Date Surveys. For Family trials, this number represents the number of months between a Case Conference or Fix Date and the first available court date that a typical half-day Family trial or hearing can be scheduled into.

The "first available date" does not include a court date that has opened up due to cancellations, since that is not when the Court would "normally" be scheduling matters in the future. This wait time also takes into account any trials or hearings awaiting a trial date to be scheduled and factors those matters into any delay estimates.

Small Claims Settlement Conferences and ½ day Trials

There are a number of locations where Small Claims cases pending settlement conferences and trials significantly exceed the Court's standards for scheduling. The following chart identifies the top 10 locations which cumulatively exceed these standards.


Small Claims: Locations with Longest Delay (in months) for Next Available Dates
As At March 31, 2010 (1)
Actual wait time (delay) in months
OCJ Standards
1/2 day Trial: 4 months from Settlement Conference to Trial
Settlement Conference: 2 months from the filing of the reply to the scheduled settlement conference date
Kelowna
Sechelt
Terrace
Chilliwack
Cranbrook
Williams Lake
Duncan
Richmond
Nelson
Fernie
Actual wait time (delay) from a settlement conference to a 1/2 day trial in months (OCJ Standard = 4 months)
9 9 6 6 6 4 6 3 3 3
Actual wait time (delay) to a settlement conference in months (OCJ Standard = 2 months)
9 9 11 9 9 10 7 8 8 8

Notes:

Data Source: Judicial (Quarterly) Next Available Date Surveys.

(1) For Small Claims settlement conferences, this number represents the number of months between the filing of the reply to the first available court date that a typical settlement conference can be scheduled into. For Small Claims half-day trials, this number represents the number of months between a settlement conference and the first available court date that a typical half-day trial or hearing can be scheduled into. The "first available date" does not include a court date that has opened up due to cancellations, since that is not when the Court would "normally" be scheduling matters in the future. This wait time also takes into account any trials or hearings awaiting a trial date to be scheduled and factors those matters into any delay estimates.

FINANCIAL REPORTS

1. 2009–2010 Budget Submissions and Expenditures

	Budget	Actual	Variance	
Salaries	$39,245,000	$36,698,375	$2,546,625	(1)
Supp. Salaries	30,000	92,409	(62,409)	
Benefits	9,478,000	8,888,896	589,104	(2)
Judicial Council/Ad Hoc/Per Diem	1,435,000	1,318,009	116,991	
Travel	1,288,000	1,295,959	(7,959)	
Central Management Support Services	171,000	255,420	(84,420)	(3)
Professional Services	97,000	153,530	(56,530)	(4)
Information Services	207,000	453,369	(246,369)	(5)
Office Expenses	905,000	1,061,761	(156,761)	(6)
Advertising	3,000	0	3,000	
Court Attire and Supplies	74,000	81,815	(7,815)	
Vehicles	66,000	70,576	(4,576)	
Amortization	249,000	359,025	(110,025)	(7)
Building Lease	413,000	524,204	(111,204)	(8)
C.A.P.C.J. Grant	8,000	0	8,000	
Library	177,000	215,906	(38,906)	(9)
Interest on Capital Leases	9,000	3,030	5,970	
General Expenses	0	0	0	
Total Operating Expenses	**$53,855,000**	**$51,472,284**	**$2,382,716**	

Provincial Court Judges	135.67
Judicial Justices of the Peace (JJPs)	14.00
Staff	88.70
Total FTE:	**238.37**

Capital Budget Variance (Systems and Furniture)	**$166,000**	**$384,179**	**($218,179)**

(1)Unanticipated illnesses, long term disabilities and retirements – delays in replacements.
(2)Related to salary savings.
(3)Increased charges from central agencies.
(4)Legal fees and contributions to the National Judicial Institute.
(5)Computer software, licences and internet access.
(6)Education costs and meeting expenses.
(7)Amortization of computer equipment.
(8)Budget reduction not realized.
(9)Increased costs for judicial reference material.

2. Expenditures and Variances for Ad Hoc Judges, Ad Hoc Judicial Justices, Per Diem Judicial Justices and Justice of the Peace Adjudicators

2009–2010 Budget Submissions and Expenditures

Ad Hoc Judge Usage	
Total Budget (100 days)	$100,200
Total Used (67 days)	$67,134
Variance (33 days)	$33,066
Per Diem Judicial Justice Usage:	
Total Budget (1,445 days)	$903,125
Total Used (1,461 days)	$913,125
Variance (16 days)	–$10,000
Ad Hoc Judicial Justice Usage:	
Total Budget (380 days)	$140,600
Total Used (420 days)	$155,400
Variance (40 days)	–$14,800
Justice of the Peace Adjudicator Usage:	
Total Budget (156 days)	$97,500
Total Used (156 days)	$97,500
Variance (0 days)	$0

COURT LOCATIONS:

The following is a list of the Court locations throughout the province, including circuit courts (noted as *):

Vancouver Island North

The Honourable Administrative Judge A. Dohm

Campbell River
Courtenay
Gold River*
Nanaimo
Port Alberni
Port Hardy
Powell River
Tahsis*
Tofino*
Ucluelet*

Vancouver Island South

The Honourable Administrative Judge E. Quantz

Duncan
Ganges*
Sidney*
Victoria
Western Communities

South Fraser

The Honourable Administrative Judge P. Gulbransen

Abbotsford
Chilliwack
Surrey

North Fraser

The Honourable Associate Chief Judge G. Gill

Port Coquitlam
New Westminster

Kootenays

The Honourable Associate Chief Judge N. N. Phillips

Castlegar*	Cranbrook
Creston*	Fernie*
Golden	Grand Forks*
Invermere*	Nakusp
Nelson	Rossland
Sparwood*	

Okanagan

The Honourable Administrative Judge E. Burdett

Kelowna	Penticton
Princeton*	Revelstoke*
Salmon Arm	Vernon

Cariboo Northeast

The Honourable Administrative Judge D. O'Byrne

Alexis Creek*	Anahim Lake*
Chetwynd*	Dawson Creek
Fort Nelson	Fort St. James*
Fort St. John	Fraser Lake*
Hudson's Hope*	Kwadacha (Fort Ware)*
Mackenzie	McBride*
100 Mile House*	Prince George
Quesnel	Tsay Keh Dene*
Tumbler Ridge*	Valemount
Vanderhoof*	Williams Lake

Kamloops

The Honourable Administrative Judge S. Frame

Ashcroft*	Chase*
Clearwater	Kamloops
Lillooet*	Merritt*

Vancouver/Richmond Robson Square

The Honourable Administrative Judge A. Ehrcke

Vancouver Civil & Family (Robson Square)
Richmond

Vancouver Criminal

The Honourable Administrative Judge J. Watchuk

Vancouver Criminal (Main Street)

Coast

The Honourable Administrative Judge W. Rogers

North Vancouver
Powell River
Pemberton*
Sechelt

Office of the Chief Judge / Headquarters

Atlin*
Bella Bella*
Lower Post*
Downtown Community Court
Bella Coola*
Good Hope Lake*
Klemtu*
Powell River

JUDICIAL COMPLEMENT

1. Judges

At the commencement of the fiscal year, the complement of Provincial Court Judges totalled 130 full-time judges, 23 part-time judges, one ad hoc judge, one judge on sick leave and three judges on long-term disability.

At March 31, 2010, the complement had eroded to 113 full-time judges, 35 part-time judges, one ad hoc judge, no judges on sick leave and three judges on long-term disability.

"Part time" refers to senior judges who have elected to receive pension and to work a reduced schedule of approximately half time, pursuant to section 9.1 of the *Provincial Court Act*.

The following changes in the complement of judges took place during the 2009–2010 fiscal year:

Deceased

H. C. Stansfield	May 7, 2009	Office of the Chief Judge

Retirements

S. C. Antifaev	May 31, 2009	North Fraser
A. R. Tweedale	August 6, 2009	Vancouver
W. R. Jack	September 30, 2009	North Island
D. L. Carlgren	January 31, 2010	Kootenays

Part Time Elections

L. W. Smith	April 1, 2009	South Island
J. M. Hubbard	April 1, 2009	South Island
E. L. Iverson	May 1, 2009	North Island
D. L. Sperry	May 1, 2009	Kootenays
W. W. Klinger	June 1, 2009	Okanagan
J. Gedye	June 1, 2009	Coast
A. J. Spence	July 1, 2009	North Fraser
J. I. D. Joe	August 1, 2009	North Island
L. J. Harvey	February 1, 2010	South Island
R. G. Fabbro	February 1, 2010	Kootenays
J. W. Jardine	February 1, 2010	South Fraser

J. J. Lenaghan	February 1, 2010	South Fraser
B. M. Neal	February 1, 2010	South Island
A. E. Rounthwaite	February 1, 2010	South Fraser
B. R. Klaver	March 1, 2010	North Island

Appointments to Supreme Court

B. D. MacKenzie	October 23, 2009	South Island
G. T. W. Bowden	October 2, 2009	Vancouver
S. S. Dley	March 19, 2010	Kamloops

New Appointments

S. E. Wishart	April 1, 2009	South Island
A. F. Brooks	April 1, 2009	South Island
R. S. Tindale	February 15, 2010	Cariboo/Northeast
R. P. Harris	February 15, 2010	South Fraser

Provincial Court Judges by Administrative District as at March 31, 2010

Office of the Chief Judge
J. J. Threlfall (until March 31, 2010)
T. J. Crabtree (effective April 8, 2010)

T. Gove
D. Pendleton
T.W. Shupe *(AH)*
C. J. Trueman *(LTD)*
K. Walker
R. E. Walker *(LTD)*
C. Warren *(LTD)*
T. Woods

Coast
W. Rodgers

J. Auxier *(Sr.)*
C.C. Baird Ellan
J. C. Challenger
W. J. Diebolt *(Sr.)*
A. Dohm
J. Gedye *(Sr.)*
D. E. Moss

Cariboo/Northeast
D. O'Byrne

E. L. Bayliff
R. R. Blaskovits
M. J. Brecknell
R. Bowry
B. Daley
B. L. Dollis *(Sr.)*
M. Gray
R. D. Morgan
R. Tindale
R. Walters
D. Weatherly

South Fraser District
P. Gulbransen

K. Ball
M. Borowicz
G. Bowden
R. Caryer
G. Cohen
T. Crabtree
P. Dohm
H. Field
D. Gardner
E. Gordon
P. Gulbransen
R. P. Harris
M. Hicks
B. G. Hoy
P. A. Hyde *(Sr.)*
J. W. Jardine *(Sr.)*
R. Lemiski *(Sr.)*
J. J. Lenaghan *(Sr.)*
J. R. M. Lytwyn *(Sr.)*
C. B. MacArthur *(Sr.)*
W. G. MacDonald *(Sr.)*
S. K. MacGregor
R. MacKay
C. G. Maltby *(Sr.)*
R. Miller
R. Raven
R. Romano
A. Rounthwaite *(Sr.)*
J. Rounthwaite
K. D. Skilnick
W. F. Stewart *(Sr.)*
J. Wingham
W. Young

Kamloops
S. Frame

C. Cleaveley
S. Harrison
H. Rohrmoser *(Sr.)*

Kootenays
N. N. Phillips *(ACJ)*

R. G. Fabbro *(Sr.)*
L. J. Mrozinski
D. L. Sperry *(Sr.)*
R. J. Webb

North Fraser
G. Gill *(ACJ)*

T. Alexander
G. Angelomatis
M. Buller-Bennett
P. De Couto
S. Dossa
B. Dyer
D. Pothecary
A. J. Spence *(Sr.)*
D. M. B. Steinberg
D. Stone
D. St. Pierre

North Island
A. Dohm

D. Cowling
P. Doherty
A. Gould
E. Iverson *(Sr.)*
J. Joe *(Sr.)*
B. Klaver *(Sr.)*
C. Lazar *(Sr.)*
J. Saunders
B. Saunderson

Northwest
H. Seidemann III

C. Birnie
A. Krantz
J. Milne
C. Struyk

South Island
E. Quantz

E. C. Blake
A. Brooks
L. F. E. Chaperon
L. J. Harvey *(Sr.)*
R. Higinbotham
M. Hubbard *(Sr.)*
J. N. Kay *(Sr.)*
B. M. Neal *(Sr.)*
A. J. Palmer *(Sr.)*
L. W. Smith *(Sr.)*
S. Wishart
J. Wood

Vancouver Region
J. Watchuk **N. N. Phillips *(ACJ)***

C. L. Bagnall
B. E. Bastin *(Sr.)*
E. Burgess
J. Galati
M. Giardini
J. E. Godfrey *(Sr.)*
F. E. Howard
W. Kitchen
R. Low
M. MacLean
D. McGee *(Sr.)*
J. McGivern *(Sr.)*
J. Palmer
G. Rideout
D. Smyth *(Sr.)*
H. Weitzel *(Sr.)*
E. Ferbey *(Sr.)*
P. Chen
B. K. Davis
H. Dhillon
A. Ehrcke
R. Fratkin
R. Gallagher
J. McKinnon
M. McMillan
P. Meyers
M. Rae
V. Romilly
D. Schmidt *(Sr.)*
D. Senniw
J. Werier
W. Yee

Okanagan
E. Burdett

A. Betton
J. Cartwright
B. Chapman
E. de Walle
V. Hogan
W. Klinger *(Sr.)*
G. Sinclair
R. Smith
M. Takahashi
J. J. Threlfall *(ACJ)*
A. Wallace

2. Judicial Justices of the Peace and Justice of the Peace Adjudicators

Judicial Justices are justices of the peace who are designated as judicial justices pursuant to section 30.1 of the *Provincial Court Act*. Under section 11 of the *Provincial Court Act*, Judicial Justices may be assigned by the Chief Judge to preside over bylaw matters and ticketable offences under provincial legislation and to hear bail and search warrant applications.

Search warrant and bail applications conducted by Judicial Justices are heard, primarily by means of telephone/facsimile and video conferencing through the Justice Centre, located in Burnaby. The Centre operates on a 24-hour basis.

Justice of the Peace Adjudicators are senior members of the bar, appointed as justices of the peace, on a part-time per diem basis, to preside over simplified trials of Small Claims matters. In 2008/09, the Court's complement was increased by the appointment of 14 Justice of the Peace Adjudicators.

At the commencement of the fiscal year, there were 15 full-time, 18 part-time and six ad hoc Judicial Justices and one Judicial Justice on LTD. In addition, there were 14 part-time Justice of the Peace Adjudicators.

At March 31, 2010, there were 14 full-time, 18 part-time and six ad hoc Judicial Justices, and one Judicial Justice remained on LTD. There continued to be 14 part-time Justice of the Peace Adjudicators.

The following changes in the complement of Judicial Justices occurred during the fiscal year 2009/10:

Retirements:
B. Lambert (October 2009)

Judicial Justices and Justice of the Peace Adjudicators by Headquarters as of March 31, 2010

Sitting Division (Full Time):
J. S. Arntsen (Administrative JJP – Traffic – Violation Ticket Centre)
J. E. Hughes (Traffic – Kamloops)
S. Joseph-Tiwary (Traffic – Port Coquitlam)

G. E. Madrick (Traffic – Victoria)
C. M. Proctor (Traffic – Robson Square – Vancouver)
Z. Makhdoom, (Traffic – Robson Square – Vancouver)
P. M. Lim (Traffic – North Vancouver)
I. L. Blackstone
P. L. Dodwell (Traffic – Richmond – as of March 2010)

Justice Centre (Full Time):
P. Schwartz (Administrative Judicial Justice)
B. S. Cyr
G. Hayes
J. Chellappan
K. M. Arlitt
M. Kobiljski (LTD)
P. L. Dodwell (until March 2010)

Judicial Justices Appointed to Serve on a Per Diem Basis:
E. Brecknell (retired PCJ) (Traffic – Salmon Arm)
B. R. Burgess (Traffic – Vernon)
H. W. Gordon (Traffic – Victoria and Victoria Integrated Court)
T. Holmes (Justice Centre)
D. A. Padron (Justice Centre)
E. E. Bowes (Justice Centre)
B. Beer (Justice Centre)
A. Brown (Justice Centre)
L. Langford (Traffic – Nelson)
N. Callegaro (Justice Centre)
F. Hodge (Justice Centre)
B. Toy (Justice Centre)
D. B. Adair (Justice Centre/Traffic)
B. L. Edwards (Justice Centre and Victoria Integrated Court)
H. J. Lindsey (Justice Centre)
C. L. Roberts (Justice Centre)
D. G. Schwartz (Justice Centre)
A. Z. A. Campbell (Justice Centre)

Judicial Justices Appointed to Serve on an Ad Hoc Basis:

C. Harvey (Justice Centre)
K. M. Yamamoto (Traffic)
J. Wakefield (Justice Centre)
D. Maihara (Justice Centre)
C. Rogers (Justice Centre)
L. Mayner (Traffic)

Justice of the Peace Adjudicators
Appointed to Serve on a Per Diem Basis:

T. Armstrong
B. Baynham, Q.C.
F. Borowicz, Q.C.
B. Cornish
K. Glasner, Q.C.
L. Kahn
K. Nordlinger, Q.C.
M. Pratchett, Q.C.
D. Roberts, Q.C.
D. Sanderson, Q.C.
G. Urquhart, Q.C.
B. Wallace, Q.C.
K. Warner, Q.C.
Donald Yule, Q.C.

Justice Centre Support Staff:

The Judicial Justices assigned to the Justice Centre are supported by administrative personnel, some of whom hold appointments as Justices of the Peace.

Justice Centre – Support Staff as of March 31, 2010
Supervisors:

Administrative Judicial Justice	**Supervisors**
P. Schwartz	D. Mayo (Justice of the Peace)
	E. Weisbrod (Justice of the Peace)

Justice Centre Coordinator:
(a permanent position effective March 2010)
S. Calla (Justice of the Peace)

Support Staff
J. Leung (Justice of the Peace)
J. Maslanko
J. Morris (Justice of the Peace)
L. Ceklaj (Justice of the Peace)
R. Fujinami (Justice of the Peace)
S. Trochta (Justice of the Peace)
K. Haldane

3. Judicial Case Managers

Judicial Case Managers are members of the judiciary who are responsible, under the supervision of Administrative Judicial Case Manager D. North and local Administrative Judges, for Court scheduling, coordination of judges' sittings, conducting initial Criminal appearances and managing the flow of cases. They are instrumental in ensuring that judicial resources are effectively allocated and utilized in a manner consistent with the rules and policies of the Court. Judicial Case Managers are justices of the peace and exercise judicial discretion as part of their duties.

The Criminal Justice Reform Project, which commenced in the 2008/09 fiscal year and involved a re-allocation of some judicial duties from judges to Judicial Case Managers, expanded to 14 Court locations in 2009/10, resulting in increased judge time becoming available to hear trials and other matters.

The following were the Court's Judicial Case Managers as at March 31, 2010:

Judicial Case Managers

Vancouver Criminal	North Vancouver Island	Cariboo-Northeast
T. L. Hill	C. M. Ballman (Courtenay/Campbell River)	D. Pillipow (Prince George)
C. J. Johnstone	V. Mitchell (Nanaimo/Port Alberni)	S. D. Jasper (Quesnel)
K. E. Butler		F. Campbell (Fort St. John)
L. L. Stokes	**South Vancouver Island**	D. Bigras (Prince George)
L. T. Caporale (p/t)	S. L. Cole (Duncan/Colwood)	
J. J. Mihic (p/t)	D. Henry (Victoria)	**Coast**
Vancouver / Richmond	Y. Locke (Victoria)	S. I. McLarty (North Vancouver)
C. Mayhew (Robson Square)	A. Bruce (Victoria)	
B. Brown (Robson Square)		
J. A. Norton (Robson Square)	J. Appleton (Victoria back-up)	**Northwest**
C. Goodrich (Richmond)	**North Fraser**	L. Leonardes (Terrace)
	M. L. deKeruzec (Port Coquitlam)	C. M. Foerster (Prince Rupert)(p/t)
	S. Gill (Port Coquitlam)	S. E. Portsch (Smithers) (p/t)
Kootenays	M. Scott (Port Coquitlam)	
M. J. Jensen (Cranbrook) (p/t)	L. MacDonald (New Westminster)	**Okanagan**
S. P. Hadikin (Nelson) (p/t)	**South Fraser**	D. C. Krenz (Kelowna)
	D. J. Hodge (Surrey)	B. L. Vincent (Kelowna)
Kamloops	J. Jenvey (Surrey) (p/t)	K. Bullach (Kelowna)
S. D. Paul (Kamloops)	A. Mitchell (Abbotsford) (p/t)	M. Warwick (Penticton)
	S. Thorne (Surrey)	
	H. Holt (Abbotsford)	
	B. L. West (Surrey) (p/t)	
	A. L. Schulz (Chilliwack)	

4. Judicial Administrative Assistants

Judicial Administrative Assistants ("JAAs") are judiciary employees who perform administrative services for Administrative Judges, judges and Judicial Justices of the Peace in the JAA's administrative district. Their duties include organizing meetings, processing written judgments, preparing the judges' Rota and compiling statistics for the Court. Judicial Administrative Assistants work under the supervision of the Administrative Judges.

5. Office of the Chief Judge Staff

The Office of the Chief Judge (OCJ) is the administrative headquarters for the Provincial Court. It is responsible for engaging with government agencies, individuals and organizations that wish to access the Court.

The OCJ consists of the Executive Committee of the Court and a staff of approximately 20, providing corporate management services to the Court. The OCJ staff provides the following services:

- Operational, financial and administrative management of the Provincial Court, including financial management and control, operational and strategic business planning and policy development;
- Information technology planning and services, management information analysis, reporting and planning;
- Working with other agencies in providing human resource services and facilities management assistance to the Court;
- Administering the Justice of the Peace program, which includes all Justices of the Peace in BC, and the Judicial Case Managers program, which provides Provincial Court scheduling services throughout the province;
- Providing legal analysis and advice to the Executive Committee, Judges and other judicial officers and OCJ staff; and
- Working alone and with other justice participants on business process reform initiatives and other corporate justice-related initiatives.

COMPLAINTS INVOLVING THE JUDICIARY

Under the *Provincial Court Act*, the Chief Judge has the power and the duty to supervise the judges and justices of the peace, and is required under section 11(2) to examine all complaints respecting judges and justices of the peace. The Chief Judge must report in writing to the complainant and the judicial officer following an examination.

The Act also requires in section 11(3) that the Chief Judge conduct an investigation respecting the fitness of a judge or justice of the peace to perform his or her duties if the Chief Judge considers that an investigation is required, or if directed to do so by the Attorney General. The result of an investigation may include corrective action or an order for an inquiry respecting the fitness of the judge or justice to perform their duties.

Complaints are required by the Act to be delivered in writing to the Chief Judge[1]. All letters to the Chief Judge which contain potential complaints are assessed by the Legal Officer to the Chief Judge to ascertain whether they come under the authority of the Chief Judge to examine under the Act. In considering allegations of misconduct, reference is made to the Judges' *Code of Judicial Ethics*[2], the Canadian Judicial Council's *Ethical Principles for Judges*[3] and the Justice of the Peace *Code of Ethics*[4].

Often, letters contain complaints about the outcome of proceedings or the merits of a decision by a judge or justice of the peace. Principles of judicial independence prevent interference by anyone, even a Chief Judge, in the judicial decision-making process. Judges must be free to make decisions unfettered by outside influence, fear of sanction or hope of favour, and it is not open to a Chief Judge or Judicial Council to review judicial decisions.

It is only through the process of appeal or application for review to a higher court that the content and correctness of judicial decisions may be challenged. Accordingly, requests for a review of the evidence, new trials, reversal of decisions, or sanctions for erroneous decisions are all matters for appeal and not properly the subject of complaints to the Chief Judge. Such letters

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[1] Reference to the Chief Judge in this context includes reference to an Associate Chief Judge who pursuant to section 10(2), has the same powers and duties as the Chief Judge.

[2] http://www.provincialcourt.bc.ca/downloads/pdf/codeofjudicialethics.pdf

[3] http://www.cjc-ccm.gc.ca/cmslib/general/news_pub_judicialconduct_Principles_1998_en.pdf

[4] http://www.provincialcourt.bc.ca/downloads/pdf/justiceofthepeacecodeofethics.pdf

receive a response describing the authority of the Chief Judge and suggesting the writer make inquiry about their rights of review or appeal and any applicable time limits.

Of the many letters received in the Office of the Chief Judge annually, few contain allegations relating to judicial conduct or issues that are properly reviewable by the Chief Judge. In addition to complaints about judicial decisions, many letters relate to other courts or institutions, lawyers, media stories or administrative issues. These receive a general response, usually from the Legal Officer, explaining the complaints authority of the Chief Judge and providing any information that may be of assistance to the writer.

If a letter is identified as a potential complaint within the authority of the Chief Judge, the Chief Judge will commence an examination and invite the judge or justice of the peace to comment on the complaint. The Chief Judge will review the complaint letter, any relevant material such as a transcript of the proceedings or audio recording (however, no transcripts or audio recordings are made for settlement conferences or Family case conferences), any response received from the judge or justice of the peace, and provide a report to the complainant and judge or justice of the peace. Most complaints are resolved with a letter explaining or acknowledging the conduct and, in some cases if appropriate, providing an apology.

As stated above, if the matter does not end at the examination stage, it may proceed to an investigation, and then possibly to an inquiry. In the history of the Court there have only been eight inquiries, and there have been none since 1981.

During the relevant years, 1,155 letters of complaint were received at the Office of the Chief Judge. On assessment, 937 matters were found not to be complaints within the authority of the Chief Judge. Examinations were commenced on the remaining matters. Including complaints carried over from 2003, 190 examinations were completed in the years from 2004 to 2009, and 10 remained outstanding at the end of 2009. Of the 190 completed examinations, all were resolved at the examination stage. These activities are summarized in the chart below, and summaries of the completed examinations are provided in Appendix "A" to this Annual Report.

An investigation may be commenced based on information received by the Chief Judge and need not be initiated by a letter of complaint. In the period from 2004 to 2009, six such investigations were conducted. All were resolved at the investigation stage. Summaries of these investigations follow the examination summaries for each year below.

COMPLAINT SUMMARIES – 2004 TO 2009

	2004	2005	2006	2007	2008	2009
Letters received	**118**	**174**	**144**	**258**	**216**	**245**
Non-complaints (those found not to be within Section 11)	**95**	**137**	**124**	**205**	**169**	**207**
Examinations performed (complaints) as summarized below	*** 20**	*** 34**	**19**	*** 46**	*** 43**	*** 28**
Investigations performed (complaints) as summarized below	*** 3**	**2**	**1**	**0**	**0**	**0**
Files unresolved by April 1, 2010	**0**	**1**	**0**	**7**	**4**	**10**

* indicates more than one letter received from an individual complainant in some instances

COMMUNITY ENGAGEMENT

Provincial Court judges participate actively in their communities. They volunteer to speak to students, at educational conferences and in public forums. They engage in local activities such as Law Days presented by the Canadian Bar Association. Judges also teach students and the media about the law and the Court's role in the administration of justice.

The Court's Community Engagement Committee (formerly Public Information Committee) was chaired by Judge A. Rounthwaite in 2009/10. Many of the Committee's initiatives were put on hold pending the appointment of a new Chief Judge, but a team of judges was formed to work with journalists to present the Committee's curriculum on the Court, the justice system and the Rule of Law to journalism students around the province.

One of the Legal Officers to the Chief Judge, Gene Jamieson, has primary responsibility for responding to media inquiries and issuing media releases on matters of interest to the public. He may be contacted through the Office of the Chief Judge.

PROVINCIAL COURT EDUCATION COMMITTEE

The Chief Judge and the Judicial Council have delegated the Council's primary responsibility for continuing the education of judges, pursuant to the *Provincial Court Act* s. 22, to the Provincial Court Judges' Association of British Columbia (PCJABC). The Association, through its officers and directors approve the judges who comprise the Education Committee. The Association makes an effort to ensure Committee members are from different geographical parts of the province, with varied practice backgrounds and interests and with a range of length of service as a judge.

In 2009/10 the Committee, chaired by Judge C. Bagnall, designed and delivered two education conferences, one in the spring and one in the fall. The members of the committee are:

Judge E. Blake
Judge T. Crabtree
Judge E. deWalle
Judge D. Pothecary
Judge K. Skilnick
Judge C. Birnie
Judge A. Brooks

The first education conference of 2009 was held at the Whistler Hilton Hotel, on April 30–May 2, 2009. The first day of the conference was focused on the best interests of children with additional sessions on the planned review of the Court's judicial education needs. The second day of the conference was highlighted by a "fireside chat" between Justice Ian Binnie of the Supreme Court of Canada and Chief Judge Hugh Stansfield and members of the Provincial Court. The remainder of the conference covered topics ranging from writing reasons for judgment and current issues in the civil law context to judicial wellness.

The second education conference of 2009 was held at the Wosk Centre in Vancouver, on November 5–7, 2009. The first day of the conference focused on the topic of the Court's obligations with respect to self-represented litigants. The Court was privileged to have an open dialogue with Justice Rosalie Abella of the Supreme Court of Canada. The Province's Deputy Health Officer joined the Court's Emergency Planning Committee on the second day of the conference and updated the Court with respect to the H1N1 virus. Other timely topics included emerging issues involving the Court and technology and time management.

JUDICIAL JUSTICES' EDUCATION

The Chief Judge and the Judicial Council have delegated the Council's primary responsibility for continuing the education of Judicial Justices, pursuant to the *Provincial Court Act* s. 22, to the Judicial Justices Association of BC. The Association, through its officers and directors, select the Judicial Justices who comprise the Education Committee. The Association makes an effort to appoint Committee members representative of the Justice Centre and Traffic Court and representative of the issues facing full-time, per diem and ad hoc Judicial Justices, with varied practice backgrounds and interests and with a range of length of service as a Judicial Justice.

While there are normally two education conferences each year for Judicial Justices, in 2009 a decision was taken to consolidate the spring and fall conferences into a single 3 ½-day conference in Victoria in order to accommodate the needs of the Court and in recognition of the difficulty in scheduling a spring event in the lead up to and during the Olympics.

Accordingly, the education conference for the 2009/10 year was held at the Laurel Point Inn in Victoria from March 1-4, 2010. On the first day of the conference Justice S. R. Romilly of the Supreme Court of BC spoke on the topic of search warrants and judicial interim release (bail) hearings while the Senior Executive Director for the Ministry of Children and Family Development and staff spoke on the *Youth Criminal Justice Act*. The remainder of the conference was dedicated to the issues of evaluating truthfulness and risk assessment and to the frailties of facial recognition. Judicial Justices were privileged to hear from Drs. Yuille, Cooper and Tanaka on these matters.

JUDICIAL EDUCATION REVIEW COMMITTEE

The Education Review Committee was struck by Acting Chief Judge J. J. Threlfall in the fall of 2008 with a mandate to review the current education delivery model that provides judicial education to the Provincial Court judiciary in the context of both the current and future needs of the judiciary and the Court.

In undertaking its review, the Committee kept in mind the purpose of judicial education as well as the changes to the Court that have occurred recently and will continue to occur in the future including:

- Legislative amendments impacting the age of retirement for the judiciary,
- The extension of the senior judge program (enabling judges to sit part time),
- Changing demographics of the Court,
- Increasing reliance on technology in delivering the work of the Court including such things as video appearances in Court and the use of information technology,
- Scarcity of fiscal resources,
- Health and wellness challenges facing the Court,
- The need to meet the Strategic Plan of the Court, and
- The responsibility to the public to provide judicial services by a judiciary who meet high standards of skill and knowledge.

The Committee undertook research regarding the education delivery models in BC as well as other jurisdictions; identified the needs of the judiciary of the Provincial Court of BC, now and in the future; evaluated the current model in the context of the needs of the judiciary and, finally, made recommendations to the Chief Judge as to whether and how change might be made to the current education model to better meet the needs of the judiciary, the Court and the public it serves, in the most cost-effective manner.

The membership of the Education Review Committee is:

Acting Chief Judge James J. Threlfall (Executive Committee)
Judge T. Crabtree (Chair)
Judge A. Palmer (Former Chair, Education Committee, Provincial Court Judges' Association)
Administrative Judge J. Watchuk (Management Committee)
Judge M. McMillan (Provincial Court Judges' Association)

EMERGENCY PLANNING COMMITTEE

As noted in the 2008/09 Annual Report, the Emergency Planning Committee first met in January 2008. The Committee had a two-year mandate to 1) identify emergency preparedness issues affecting our Court, 2) develop recommendations to address those issues, and 3) educate the judiciary on emergency preparedness issues. Judges Hogan (Chair), Gill, Seidemann III, Weatherly and Frame, along with Judicial Justice / Legal Officer Edwards, Information and Technology Manager Di Iorio and Judicial Case Manager McLarty served throughout the 2009/10 fiscal year.

In a large-scale emergency, many of the orders that civil authorities and the police will need to operate effectively will lead them to Provincial Court. Therefore, in order to preserve the rule of law, the Court must be prepared to continue its work during a time of crisis. The Committee began by identifying the two major threats, pandemic disease and earthquakes, in addition to other numerous possible disasters, such as electrical failure, computer and communication collapse, or local disasters such as industrial accidents, all of which could affect Provincial Court operations.

Throughout the H1N1 pandemic the Committee provided advice to the Court on legal issues and wellness.

The Committee continued its task of meeting with disaster planners and canvassed the state of emergency preparedness among our many partners in BC and advised them about the role of the Court in an emergency. The Committee sent participants to emergency preparedness conferences to inform the Committee on the most current information regarding Court emergency planning across North America.

The Committee presented a one-hour program to the Provincial Court Judges at their educational conference in November 2009 and prepared to deliver an all-day presentation on emergency planning for the Court at the spring educational conference in April 2010. The Committee prepared and delivered a Business Continuity Plan, a Pandemic Plan and a Report to the Executive Committee of the Court. These plans and report identified issues, offered advice and laid out strategies to address emergency situations facing the Court.

STRATEGIC PLANNING

The Court's Strategic Planning Committee was not active in the 2009/10 fiscal year as the Court was in transition awaiting the appointment of a new Chief Judge who would set the direction for the Court. The Court's previous plan covered the period 2006–2009. That plan provided a blueprint for Court reform, planning and operations. The plan set goals for the Court in four key areas: delivery of justice; enhancing meaningful public access for the Court; anticipating and meeting the needs of society through judicial innovation and reform; and ensuring that the administration and management of the Court is transparent, fair and effective.

Many of the 2006–2009 Plan's goals and objectives have been achieved including:

- Reviews of the Court's operations on a district by district basis are substantially completed, noting best practices to be shared between districts.
- Reform initiatives, supervised by members of the Executive Committee, were implemented in the areas of criminal justice, domestic violence, ethics, bail reform, education reform, aboriginal justice and judicial Competence/Excellence.
- A comprehensive review of judicial education, its goals and funding was undertaken by the Court's Education Reform Committee.
- Victoria Integrated Court in Victoria, First Nations' Court in New Westminster, Downtown Community Court in Vancouver and the Domestic Violence Initiative in Duncan were established to offer an integrated, problem-solving approach to justice issues in the community.
- The Court designed, implemented and now hosts an electronic library and virtual office which gathers, collates and provides data and services to the Canadian Council of Chief Judges.
- Legally trained per diem Judicial Justices were appointed and added to the Court's Rota and are now adjudicating bail, reviewing search warrant applications and presiding at the Justice Centre in the Lower Mainland, Integrated Court in Victoria ,and Traffic Courts throughout the province.
- The Court began piloting a centralized "virtual" bail court using Polycom and video equipment through the Justice Centre in the Lower Mainland and offering services in the Lower Mainland and the Peace Region of BC
- The Court began a civil reform project using arbitrators and mediators to resolve Small Claims matters in an expedited process at the Robson and Richmond Court locations.
- The Information Technology Strategic Plan for the Court was created and implemented.

Information Technology Strategic Plan:

In the summer of 2008, the Information Technology Services department of the Office of the Chief Judge developed a three-year Information Technology Strategic Plan for the period 2008–2011. The overall goal is to develop a comprehensive plan that addresses both the information technology needs of the Court with strategies appropriate to support the Court's strategic vision of "maintaining and enhancing the Court's technological infrastructure for its present and future needs."

The early stages of the IT Strategic Plan focused on infrastructure and resources, reflective of the maturing IT environment at the Provincial Court. This foundation is now nearing completion. With this framework now in place, the focus of the plan will move to the next stage, technology education and maximizing the use of the Provincial Court's services and technology.

The Executive and Management Committees continue to monitor the Court's progress in achieving the goals set by the plan and to take action, where necessary, to ensure that the strategies identified are appropriate and sufficient to achieve the goals of the plan.

WEBSITE AND JUDGMENT DATABASE

The Court's website provides the public with a broad range of information and announcements about the Court and the Judicial Council of British Columbia. On the website, interested readers may learn more about the judiciary who serve the Court, the many locations at which they preside and the types of cases that the Court addresses on a regular basis. The website also hosts the Court's judgment database, which contains written decisions of the Court for the past nine years.

As of March 31, 2010, there were 5,516 written judgments posted to the Court's database. Members of the public may be interested to know that the database has a feature that enables users to locate judgments that have been posted in the past seven days. This may be particularly useful to users such as journalists and researchers who wish to keep up-to-date on recent decisions of the Court.

The Provincial Court website is http://www.provincialcourt.bc.ca

A more direct link to the most recent decisions of the Court posted in the immediately preceding seven days for all courts in British Columbia is also accessible at http://www.courts.gov.bc.ca

APPENDIX "A"

Summaries of Complaints Respecting the Judiciary 2004–2009

COMPLAINT EXAMINATION SUMMARIES – 2004

1. Complaint about the manner in which the mother of a young accused was treated in not providing her an opportunity to speak.

While perhaps opportunity to comment could have been more extensive, all parties were treated in a respectful manner.

2. An unrepresented mother in a child access proceeding expressed concern that the presiding Judge at a Family Case Conference (FCC) was intimidating and threatening. As there was no agreement initially reached at the FCC, the Judge indicated to the mother that the matter would then have to go to trial immediately.

In response to the complaint, the Judge provided an extensive letter, explaining the need for early resolution to matters involving child access. The Judge also noted that FCCs are intense emotional experiences and often take some pressure from the Judge on both parties to keep them on track and moving forward in the small amount of time allotted for FCCs. The Judge regrets that the mother was left with the impression that the proceedings were not conducted fairly but the Judge appeared to make every effort to ensure that both parties received a fair hearing.

3. As a member of a local fellowship group, the Judge supervised an action committee that took steps, including fundraising, to dispute actions of a municipal authority in dismissing an individual. The matter received media attention including a quote from the Judge.

The Judge was advised to withdraw from the group and refrain from public controversy.

4. Complaint that the Judge acted aggressively and inappropriately in a Family hearing when the complainant participated by phone.

After examination of transcript and audio recording of proceedings, these assertions were not substantiated. The Judge was concerned about compliance with past Orders and was firm in that regard, but did not act inappropriately.

5. Assertions between Judicial Justices of the Peace (JJPs) alleging various ill-treatment of each other.

The JJPs were reminded of the ethical responsibility to treat all, including each other, with respect and tolerance.

6. Complaint that suggested the Judge had made up his mind in advance of hearing concerning the complainant's ex parte application.

The Judge responded to the complaint explaining the need for a Judge to ask questions of ex parte applicants. The Judge apologized for any miscommunication that resulted in a suggestion he was angry or irritated. He was not. His response was a full answer to the complaint.

7. Complaint that the Judge spoke abruptly in a proceeding.

While exchanges in court may appear abrupt in isolation, in the context of the hearing the Judge was simply being firm. The circumstances do not raise a question of judicial conduct.

8. Complaint that the Judge was very rude.

While the Judge was firm and stern with complainant, the complainant's noncompliance with the requirement to provide financial information caused the Judge to believe that the approach was appropriate. Such circumstances do not raise an issue of conduct.

9. Complaint that the JJP made inappropriate comments to a person in custody during an interim release hearing and failed to record the proceedings.

The JJP indicated that the comments complained of were made by the police officer, not the JJP, and that it was appropriate to remand the accused to appear in court after the weekend. The failure to record was accidental, due to a machine malfunction.

10. Complaint that the JJP in a violation ticket matter had a "nasty attitude" toward the complainant.

Review of the audio recording of proceedings did not substantiate the assertions. The JJP asked the complainant, who was a witness in the proceedings, to refrain from comments from the gallery which were interfering with the proceeding. Eventually the JJP asked the complainant to leave, a request that was understandable in light of disruption caused by the complainant.

11. Complaint that the Judge unduly coaxed the complainant into settlement, made inappropriate comments during settlement discussions and was unduly courteous to opposing legal counsel.

Extensive explanation provided by the Judge showed he was trying to assist the complainant as an unrepresented litigant. No basis to suggest inappropriate conduct.

12. Complaint suggested the Judge was rude and lost temper.

It was apparent the complainant disagreed with the Judge's decision not to grant summary judgment at a settlement conference. The Judge decided there was no further point in continuing the settlement conference when agreement could not be reached. Interactions with the Judge did not raise conduct issues.

13. Complaint that the Judge yelled at the complainant at a settlement conference and threatened that the complainant would not be allowed back in court if he walked out of the conference.

After review of the Judge's response, it was apparent complainant saw settlement conference as a formality and would not participate. Such circumstances do not raise an issue of judicial conduct.

14. Complaint that the Judge at a settlement conference excluded a party's representative.

While the complainant felt unsettled by the firmness with which the settlement conference Judge limited participation by a non-lawyer representative of a party, it was the Judge's responsibility to facilitate the settlement process. Nothing the Judge did suggested any issue of misconduct.

15. Complaint about interaction with the JJP at a hearing, suggesting the JJP was abrupt and did not sufficiently explain proceeding.

It was apparent the complainant did not understand the proceedings and felt challenged by the JJP. When the JJP interrupted the case to hear another matter, it left the impression that the complainant was being punished for not pleading guilty. The JJP's conduct could have been more consistent with appearance of fairness. But this was a matter of undue haste by the JJP, not competence.

16. The defendant was left with the impression by the JJP's conduct that the JJP was displeased with the defendant's not guilty plea.

The JJP apologized, noting any such conduct was entirely unintentional. The JJP dealt with the trial in a straightforward and independent manner. In light of the apology, no need for further action.

17. Complaint that a Court Services Justice of the Peace (CSJP) spoke to a party outside of court in a manner that was threatening, humiliating and embarrassing. The complainant discussed with the CSJP decisions not to issue requested subpoenas. The CSJP, at a later date, felt it necessary to speak with the complainant about a personal matter and that discussion was tense and heated.

While the latter discussion was not strictly when the CSJP was acting in a judicial capacity, JP Code of Ethics requires the CSJP to act at all times in a manner that is calm and courteous with the public and promotes public confidence in the integrity and impartiality of the judiciary. It would have been preferable for the CSJP to use other available mechanisms for addressing his personal concerns about the complainant. This was an isolated incident with extenuating circumstances and did not require further action by the Chief Judge.

18. Complainant asserted the Judge had been rude and bullying in his conduct of this case and that he ought not to have presided at trial when he had stated during consideration of preliminary matters that he would not hear the trial.

Review of audio recording of proceedings shows the Judge was not rude or bullying. The parties did not object to the Judge proceeding to hear the trial, which would have been the appropriate place to raise such concerns.

19. Complaint that the JJP treated the complainant in a belittling manner and threatened to have her charged with driving without due care and attention.

Review of the audio recording of proceedings did not support the assertions. While there was a verbal exchange in which the JJP indicated the complainant's conduct may have supported such a charge, the comments by the JJP were intended to emphasize the seriousness of the conduct and not as a threat. While not the best practice to engage in such speculation or otherwise engage in a discussion with a defendant as to whether they appreciated the seriousness of the offence, the JJP apologized and no further action was necessary.

Investigation Summary

In addition to the above examinations of complaints, the following matter proceeded to investigation under section 11(3) in 2004.

1. A series of complaints about a Judge were received within a short period of time in the summer of 2004. These complaints included a suggestion the Judge made a comment about a prisoner to a Sheriff who was transporting the prisoner, an assertion the Judge presided at a settlement conference when he had once been the employer of a party and had provided a reference letter to that party, and an assertion that the Judge allowed a personal friend unconnected to a case to view a record in a Family case. As a result of the number and nature of the complaints, the Judge was placed on administrative leave and an examination was conducted. The Judge resigned in 2005, and the complaint files were consequently closed.

COMPLAINT EXAMINATION SUMMARIES – 2005

1. Complaint that the Judge prevented a party from presenting its case in a comprehensive manner and treated party with ill-favour.

Review of the audio recording of the proceedings did not support the assertions.

2. Complaint that the Judicial Justice of the Peace (JJP) and enforcement officer were laughing at complainant's expense after trial ended.

Review of the audio recording of the proceedings did not support the assertion.

3. Police complained about the Judge's decision to reverse bail decision, suggesting infirmity due to diabetic reaction.

Examination revealed no evidence of medical issue and no apparent lapse in judgment; decision by the Judge was considered and responsive to submissions and circumstances. While the Judge spoke slowly, this was not uncharacteristic of the Judge's usual manner.

4. Complaint that the Judge was biased against a party of a settlement conference.

Settlement conferences involve a Judge seeking possible avenues for settlement. This can properly involve the Judge taking a strong role in trying to achieve settlement and dismissing claims that have no merit. Complaint was dismissed as being based on misapprehending Judge's role at settlement conference.

5. Complaint that the Judge was inconsiderate and almost arrogant during a settlement conference.

The Judge had dismissed claim at settlement conference, pursuant to Small Claims Rules. Complainant was angry at conference as a result of claim being dismissed. The Judge's explanation of those events showed no issue of misconduct.

6. Complaint that the Judicial Case Manager (JCM) presiding at an initial appearance called counsel out of court and berated her in a manner described as "humiliating and bellicose," "aggressive, personal" and "spiteful," for speaking to another lawyer in the courtroom while court was in session.

The JCM apologized and the Chief Judge found that the complaint was instructive and would assist JCM to maintain a higher standard of conduct in future.

7. Complaint that the JJP required the witness to swear an oath and did not offer to affirm her.

The JJP was advised to revise practice as it would have been preferable to provide for both options.

8. Complainant's spouse had sought an adjournment in the complainant's absence. Complaint that the JJP denied request abruptly.

The JJP could have shown more patience in dealing with the matter. The JJP was so informed by the Chief Judge.

9. Complaint that the Judge was patronizing, impatient and egotistical in her conduct of a settlement conference.

Complainant was informed that Judges are intended to play a strong role in determining whether settlement is possible in such conferences. Judges have significant discretion in the conduct of settlement conferences. While the Judge will appreciate from complaint how she was perceived, judicial misconduct was not established.

10. Complaint that there was delay in dealing with a scheduled trial, due to a need to deal with a higher priority matter.

Time estimates for matters scheduled may end up not being accurate for a variety of reasons. The Court remains vigilant not only to avoid unnecessary delays but also to ensure parties have a fair trial that is not unduly limited in time.

11. Complaint that the Judge would not allow a non-party to participate in a Family case conference.

A Judge has discretion to allow or not allow participation by non-parties in Family case conferences. The exercise of discretion does not raise a conduct issue.

12. Complaint that the Judge had advance notice of the case being pursued in another forum and that the Judge did not provide the complainant an opportunity to make submissions at a settlement conference.

The allegations in the complaint were not established. The Judge had made notes immediately after hearing and they indicated that background information was provided by the other party in open court. The Judge sought explanation for claim from the complainant.

13. Complaint that the JJP harassed a party for speaking too loudly in hallway during proceedings.

The JJP was taking reasonable steps to maintain order in courtroom. At another instance the JJP exhibited irritation with the complainant which, while regrettable, needed to be balanced with appreciation for the JJP's exceptional efforts to ensure a fair hearing. The isolated instance of the JJP showing irritation did not raise an issue of fitness for office.

14. Complaint that the JJP acted rudely and was not impartial.

The JJP ran the Court that day in an efficient manner and explained processes effectively. While it would have been a better practice to have fully heard from the unrepresented litigant concerning the perceived relevance of specific evidence, that instance did not raise any issues of conduct or fitness for office.

15. Complaint that the JJP criticized another judicial officer in open court, and openly demonstrated frustration and impatience.

The JJP thereby committed a breach of judicial ethics. No further corrective action was required beyond the educational benefit realized by the JJP through discussion of the complaint.

16. Complaint that the JJP did not treat the disputant with respect and was extremely unpleasant.

The JJP had been somewhat abrupt and could have provided a more complete explanation to the parties for being unable to deal with their case. The JJP was so informed and reminded of the importance for judicial officers to treat everyone with respect and care.

17. Complaint that the application hearing did not provide full opportunity for parties to be heard by the Judge.

While the Judge could have been clearer in providing full reasons for allowing default judgment to be set aside, the process for consideration of such an application is intended as summary and there was a substantial reason for the decision. The Judge acted fairly and properly.

18. Complaint raised issue regarding training and whether the JJP ought to have considered possibility of striking guilty plea when evidence suggested possible defence of necessity in a speeding case.

The appropriate legal principles were brought to the JJP's attention, and access to the Court's Legal Officer was provided, but no further action was necessary.

19. The Judge included certain comments in an oral judgment which could have been construed as being critical of another Judge of the Court.

Through discussion with the Judge it became apparent that had not been the intent; the incident served as a useful reminder of the care that must be taken in oral judgments.

20. Complaint that the Judge was biased in light of the Judge's disapproval of conduct of Crown counsel in the case.

There was an isolated mild rebuke to Crown counsel by the Judge, which is sometimes necessary to maintain order. The instance did not establish any issue of conduct.

21. Complaint that the Judge's conduct in a settlement conference was inappropriate when the Judge suggested claim would be difficult to sustain at trial.

Part of the function of a settlement conference is for a Judge, who will not be the trial Judge, to provide parties with perspective about the merits of their positions. This does not raise any issue of fitness for office.

22. The Judge determined he had some prior, personal knowledge of one of the parties at a case conference. Two of the three parties (including the complainant) were represented by counsel; the lawyers and the other party consented to the conference proceeding. The conference did not go well. The complainant perceived that the Judge displayed bias toward the party he knew and the complainant thought the Judge was condescending toward her.

The Chief Judge interviewed both lawyers. The Judge should not have permitted one party to call the Judge by his first name, but save for that, there was no evidence of conduct affecting his fitness for office. No further action was necessary.

23. Complaint that the Judge yelled at the complainant and was loud, belligerent and demeaning.

After receiving the Judge's extensive response to the complaint, the Chief Judge concluded the matter did not raise an issue of judicial conduct requiring further examination.

24. Complaint that the JJP's tone was aggressive in dealing with a person a few minutes late for court. The JJP told the disputant that he could then be found guilty because of his absence at the right time.

The JJP's assertion was questionable as a matter of law. The JJP was impatient, rude and demeaning, which were serious ethical breaches. The JJP was reminded by the Chief Judge of the imperative that he conduct himself judicially and that he treat all persons respectfully. Further corrective action may be necessary if the conduct was repeated.

25. The complainant felt teased and intimidated by the Judge referring to her and the alleged assailant as "kissing cousins."

The inappropriate use of such a phrase occurred twice in the proceedings. The Judge apologized for doing so and made it clear he had no intent to tease or humiliate. Complaint file was closed on that basis.

26. Complaint that the JJP treated complainant with abruptness and antagonism.

The JJP was seeking to complete a relatively straightforward case in a timely manner. However, in doing so he was sometimes terse in his responses. His conduct fell below the standard expected of judicial officers who must ensure those with little experience in Court proceedings are treated with respect for perceived missteps that may occur in the presentation of evidence.

27. Complaint that the JJP presiding at a Traffic violation dispute hearing was impatient and favoured the prosecuting police officer.

There was "bad blood" between the disputant and the police officer. But the manner in which the JJP handled the hearing reasonably could have caused the disputant to perceive that the JJP was unreasonably impatient and abrupt, and arguably defensive of the officer to an extent that permitted a perception of bias. The disputant was advised that the Chief Judge agreed the JJP failed to manage the hearing well. No corrective action was required beyond discussion of the issues with the JJP.

28. Complaint that the JJP was aggressive in dealing with a disputant who sought to raise a defence on a speeding ticket.

While a presiding JJP needs to ensure relevancy of questions asked of witnesses by parties, it would have been preferable for the JJP to calmly explain process and the type of questions that can be asked. JJPs must assist unrepresented litigants so they understand the process. That did not occur in this case and the JJP's conduct was below the ethical standard expected.

29. Complaint that the Judge in a highly charged Civil dispute between neighbours was biased and "rude and arrogant."

The Judge exercised firm control over the process. While the Judge did not maintain "serenity" at all times, there was no material issue of judicial misconduct. No further action was required beyond drawing those conclusions to the Judge's attention.

30. Complaint that the Judge was rude to a party who was in arrears on maintenance payments. The party's medical evidence of inability to work was limited.

The Judge acknowledged she could have been less forceful and regretted that the complainant felt depressed and angry after the proceedings.

31. A JJP wrote inflammatory emails critical of administration and colleagues. The JJP had previously been admonished on three occasions regarding appropriate use of emails and was restricted in use of directories.

On this occasion the JJP was further restricted from use of any directories to send blanket emails to colleagues.

32. A Court Services Branch Administrative Justice of the Peace (CSJP) was temporarily relieved of her right to exercise her commission following a conviction for impaired driving involving particularly high blood alcohol readings.

After securing comprehensive medical advice, the CSJP was permitted to resume the exercise of her commission upon agreeing in writing to comply with the terms and conditions recommended by professionals, namely that she abstain absolutely from the consumption of alcohol for a minimum period of 12 months, and that she continue to participate in alcohol and drug counselling for a minimum period of two years.

33. Complaint that two JJPs refused to follow the hours specified in the letter of assignment provided to each of them requiring that they to work at the Justice Centre from 8:30 am to 4:30 pm with 1/2 hour for lunch, Monday through Friday. Others were left to cover their shifts.

Both JJPs were consistently leaving the Justice Centre at 3:30 pm or earlier. Both JJPs were provided a letter saying that the complaint was made out, their files would be noted accordingly and that they would be expected to comply with their assignments.

34. Complaint that the JJP was impatient and did not treat the complainant with respect as she sought an adjournment on behalf of an absent disputant.

The complaint was made out and the JJP did not meet the ethical conduct standards expected. A copy of this complaint would stay on the JJP's file, and if similar complaints arise in the future, further corrective action would be considered.

Investigation Summaries

In addition to the above examinations of complaints, the following matters proceeded to investigation under section 11(3) in 2005:

1. The complainant corporation alleged that the Judge had threatened staff both in writing and orally regarding a dispute with the corporation. The complaint also alleged that the Judge expressly asserted judicial office as justification for special treatment. The Judge acknowledged the complaints at first instance; the Chief Judge referred the matter for investigation. The investigation confirmed the Judge had breached the Judge's ethical obligations and the judicial code of conduct. The Judge immediately apologized both in writing and in person. Further remedial action specified by the Chief Judge was completed as directed. The complainant confirmed that the investigation and outcome completely addressed the concerns of the corporation and its staff.

2. A police department complained that a CSJP was the "self-reported girlfriend" of an individual who, nine years earlier, was convicted of three counts of sexual assault with a weapon and sentenced to a period of nine years' federal incarceration. Further, the police complained that the CSJP did not return calls from the offender's parole officer, suggesting that as a CSJP, she did not need to respond. Investigation of these assertions found that the police misapprehended the role of the CSJP, believing that she had authority to consider search warrant applications. As a CSJP, she had no such authority but instead had extremely limited powers. The offender was no longer on parole. The offender completed all aspects of his criminal sentence and was not alleged to have breached his parole in any way. There was no suggestion that he was under any current criminal investigation or that he was functioning as anything other than a law-abiding citizen. Against that background, a fully informed and reasonable member of the community would not question the impartiality and independence required of a CSJP in the performance of their judicial duties. The CSJP acted inappropriately and in a manner which constituted judicial misconduct by failing to advise the Chief Judge when she entered into a relationship with a

person who was then still on parole for various serious criminal offences. This was compounded by failing to advise the Chief Judge at any later date until the matter was raised by the police with the Chief Judge. The Chief Judge concluded that the considerable angst for the CSJP associated with being required to respond to this complaint had been more than an adequate response to that misconduct. No further corrective action was required.

COMPLAINT EXAMINATION SUMMARIES – 2006

1. Complaint that the Judicial Justice of the Peace (JJP) treated counsel rudely and was abusive in preventing counsel's effective cross-examination of a prosecution witness.

Counsel was confrontational and thus the JJP was annoyed and allowed that to influence objectivity and judgment. The JJP was offered a judicial mentor and was advised that a mentorship would be mandatory if similar conduct occurred in the future.

2. Complaint that the Judge and complainant were "butting heads" at the settlement conference.

The circumstances of the settlement conference warranted strong conduct by Judge. The circumstances did not raise an issue of judicial misconduct.

3. Complaint that the JJP, while presiding in open court on a municipal violation ticket matter, telephoned a municipal office to obtain further information about the case she was then hearing in court.

It was inappropriate for the judicial officer to personally seek out evidence. In addition, the JJP did not state all evidence so obtained on the record. Misconduct was established and the JJP was counselled accordingly.

4. Complaint that the JJP, after determining a parking meter violation had been proven, refused to consider evidence of bankruptcy to support a plea for a reduced penalty. The complainant alleged more generally that the JJP "punished" persons who pleaded not guilty by refusing to reduce penalties in the manner applied to persons who pleaded guilty.

The Chief Judge agreed it would have been preferable, but was not essential, for the JJP to consider the bankruptcy evidence in the context of a recommended penalty of $109.

5. Complaint that the JJP was absent from a mandatory education conference and the absence was not satisfactorily explained.

This complaint was consolidated with a broader issue with respect to absenteeism of the JJP. The underlying medical issues were treated and resolved, resulting in closure of this complaint file.

6. Complaint by an individual convicted of uttering threats after a multiple-day trial that the Judge acted in "a rage" during the trial and on another instance "was so angry" that the Judge ordered the accused into custody.

The accused had been cited for contempt and taken into custody. The Judge exhibited patience and politeness in dealing with a challenging self-represented accused. With respect to the contempt matter, review of the audio recording of proceedings did not suggest the Judge acted in an angry manner but instead appeared measured in taking the steps he did.

7. Complaint that the JJP was hostile, impatient and overbearing in a proceeding.

The JJP overreacted during the proceedings and did not demonstrate the necessary patience of a judicial officer. The JJP was required to meet with the Court's Legal Officer to review in detail the conduct expected of judicial officers.

8. Complaint that the JJP had released an individual despite a material witness warrant requiring that the witness be brought before the Supreme Court.

Rather than a conduct issue, these circumstances raised an education issue dealt with by letter to the JJP and a Practice Note to all JJPs from the Court's Legal Officer.

9. Complaint that the JJP was curt, abrasive and condescending in dealing with a violation ticket case.

Review of the audio recording of proceedings instead showed the JJP to have provided complainant great latitude while making comments from time to time appropriately questioning the relevance of complainant's evidence.

10. Complaint about perceived delays in Family Court scheduling in one district of the Court and about Judges only sitting in court four days per week.

Following a response providing statistics and explanations about both Family Court scheduling and procedures, and Judges' duties during their non-sitting days, the complainant replied with a letter of appreciation for the information.

11. Complaint that the JJP presiding in Traffic Court was actively discouraging prosecutors from prosecuting cases by telephone despite authority for such a procedure in the Offence Act.

The JJP had concluded in the case at issue that the identity of the disputant could not be established because the police officer was not present in the courtroom but was instead appearing remotely by telephone. The complaint amounted to a disagreement with the merits or the correctness of the decision.

12. Complaint that the Judge was extremely rude to the complainant's daughter who was before the Judge as a parent on a child access issue.

The complainant's daughter had disobeyed Court-ordered access for the other parent. The Judge's comments to the daughter were pointed and appropriately forceful in emphasizing the importance of obeying Court orders.

13. Complaint that the Judge should not have dealt with a court application after stating at the end of the hearing that he may have had a commercial transaction with a party to the proceeding in the past and therefore should not be scheduled further for the case.

The Judge was recusing himself from future proceedings out of an abundance of caution, not because of any conclusion that there was a real or perceived conflict of interest.

14. Complaint that the Judge acted oppressively toward a party at a hearing and would not allow her to speak.

After review of the audio recording of proceedings, it was apparent the Judge treated the complainant with great patience while ensuring the complainant limited her comments to the discrete issue before the Judge.

15. Complaint from a Judge that an acting Judicial Case Manager (JCM) was making remarks about him and avoiding him. The Judge suggested this occurred because the Judge had reprimanded the JCM when the JCM had addressed the Judge by his first name.

The complaint was found to have no substance.

16. Complaint of general misfeasance by the Judge in dealing with private prosecution process issue.

The complaint was found to have no substance.

17. Complainant was the mother in a Family Case Conference (FCC) where the father had a history of domestic violence, supervised access and non-participation in parenting for the previous five years. The father was applying to re-engage with the children. Complaint that the Judge was biased and failed to recognize father's problematic history.

The Chief Judge acknowledged disturbing history but determined allegations of bias and conspiracy were unfounded. Psychologist report at the FCC offered expert facts to support the resolution recommended by the Judge.

18. Complaint making broad assertion of bias and fraud against the Judge by an unsuccessful litigant in a Small Claims action.

Review of the audio recording of the proceedings did not support the assertions.

19. Complaint that the Judge would not allow complainant to speak on his application to enforce a judgment debt and that the Judge treated another litigant earlier that day in a demeaning manner.

Review of the audio recording of the proceedings did not support the complaint, including the suggestion of a demeaning manner. The Judge appropriately first asked the defendant to speak to explain why the judgment had not been paid. Complainant was given full opportunity to respond.

Investigation Summary

In addition to the above examination of complaints, the following matter proceeded to investigation under section 11(3) in 2006.

1. An initial complaint was received from Vancouver Police that the Judge had been involved in an incident at a downtown Vancouver hotel bar, that the Judge had been intoxicated and uncooperative, and that the Judge had been arrested and held in city cells overnight. The Judge reported to the Chief Judge later that morning, and confirmed the material particulars. The Chief Judge escalated the examination to an investigation. A thorough investigation report was prepared following a lengthy delay during which a criminal prosecution for causing a disturbance was resolved by alternate measures and a stay of proceedings. When the Chief Judge was prepared to release his decision as to whether there should be an inquiry, the Judge elected to resign his office, thereby rendering any further section 11 proceedings unnecessary.

COMPLAINT EXAMINATION SUMMARIES – 2007

1. Complaint that there had been inappropriate prior contact between the Judge and a party after the Judge made reference in court to a chance encounter at the courthouse by the Judge with an individual who was later a party in a Family case that day.

In response to the complaint, the Judge explained that it was a chance, brief encounter and nothing of substance was discussed. The complaint was found to have no substance.

2. Complaint by an accused in a Criminal proceeding who made general assertions of judicial misconduct. He also suggested bias because the Judge speculated, prior to Crown submissions on sentencing, whether a forensic psychiatric examination would assist in sentencing.

The Judge reasonably interjected during questioning to maintain the relevance of the questioning by the self-represented accused. There was nothing unusual or sinister in a Judge, having heard the evidence in the case, anticipating or suggesting a forensic report might be helpful.

3. Complaint that the Judge used a loud and hostile voice and "angrily growled" at the complainant's Criminal trial and "rushed and harangued" the complainant as a self-represented accused.

Review of the audio recording of proceedings did not support the assertions. Forceful action was taken by the Judge from time to time to control the proceedings. It was not apparent that the Judge's conduct took the Judge outside the range of actions in which a presiding Judge must sometimes engage in order to exercise appropriate control over contentious proceedings.

4. Complaint that the Judge was disrespectful and yelled at the self-represented accused during a contentious Criminal trial over the course of three days.

The complainant was aggressive in pursuing his defence and firmly believed that witnesses for the Crown were not telling the truth. The complainant also responded aggressively to efforts by the Judge to inform the complainant that he needed to restrict himself to matters that were relevant to the charges. The Judge took strong steps to maintain order in the trial process. By doing so the Judge did not misconduct himself.

5. During the course of a Small Claims trial, the Judge engaged the parties in discussions which ultimately resulted in settlement of the case. Complaint that a party was effectively forced into the settlement by adverse remarks made by the Judge.

Prior to the matter settling, the Judge indicated that if the parties were to continue with a trial they should bring in a new Judge who had not participated in frank settlement discussions. The parties rejected that possible course of action and agreed with the settlement. The complaint was found to be without substance.

6. Complaint that the Judicial Justice of the Peace (JJP) was unnecessarily and inappropriately overbearing with the defendant in a violation ticket case.

The JJP did not treat complainant with the necessary respect and patience. The circumstances raised a significant issue of conduct. As the JJP had since resigned, the Chief Judge had no further authority to take additional steps.

7. Complaint that the Judge at a Small Claims trial repeatedly interrupted him as a self-represented litigant in presenting evidence.

The Judge's questioning of witnesses was quickly paced and can be seen as an example of an experienced Judge drawing out of a witness, in an expeditious and efficient manner, the witness's evidence of the incident at issue. The Judge's questions were not inappropriate. At the end of questioning by the Judge, the Judge provided the witness an opportunity to give any further evidence they wished to provide. The questioning was fair and directed to the purpose of securing relevant information for the issues before the Judge. Review of the audio recording did not substantiate any suggestion of misconduct.

8. Complaint that the Judge made comments during a settlement conference that could be seen as sarcastic or otherwise unduly informal.

The Judge did not recall, but did not dispute making such comments. The Judge apologized for anything that caused the complainant to believe they were not treated with respect.

9. Complaint that the Judge was rude and insensitive in a proceeding.

Review of the audio recording of proceedings did not support such an assertion.

10. Complaint that the Judge had reprimanded one person and ejected them from the court and had coached a party not to accept an amendment to a pleading sought by the other party. Further, the complainant asserted that the Judge was argumentative and did not allow the complainant to properly question a witness.

Review of the audio recording of proceedings did not support the assertions.

11. Complaint that a party at a settlement conference was rudely interrupted by the Judge.

The Judge indicated that she treated parties with courtesy while communicating realism about their expectations. A Judge's role in a settlement conference may be more interventionist than at a trial. The complaint was not substantiated.

12. Complaint that the Judge was unprofessional and biased in refusing to adjourn the complainant's trial when his counsel did not attend the scheduled matter. The Judge also suggested that the complainant had an option of reporting the lawyer to the Law Society.

A judicial review of the Judge's decision on these matters was dismissed by a Supreme Court Judge. The Supreme Court concluded there was no demonstrated reasonable apprehension of bias on the part of the Judge toward the lawyer or his client and, indeed, the Judge had been patient and polite with the complainant and attempted to ensure that he was assisted in defending the charge in his lawyer's absence. After review of the Supreme Court findings and the proceedings in Provincial Court, no issue of judicial misconduct was established.

13. Complaint that the Judicial Case Manager (JCM) was not returning calls from a party seeking to establish trial dates in a Family matter.

The JCM apologized for failing to maintain adequate contact with the complainant. The complainant was asked to advise the Office of the Chief Judge if further difficulties were encountered.

14. Complaint that a JJP had ordered the RCMP to refrain from speaking with an accused person who was remanded in custody at the police detachment as the accused could not be transported to another facility overnight.

The complaint is about the merits of a judicial decision, and therefore not a matter within the authority of the Chief Judge to examine as a conduct issue.

15. Complaint that the presiding Judge at the pre-trial application spoke to the complainant in an impatient and unfriendly tone, almost yelling at the complainant. The Judge adjourned the complainant's application to allow the complainant to consult with legal counsel.

Review of the audio recording of proceedings did not support the complainant's assertion about the Judge's conduct. While the Judge sought to gain the complainant's support for his decision to adjourn the matter, his comments and tone could not be described as inappropriate.

16. Complaint that the Judge used word "churlish" to describe a party to a proceeding. The complainant took great offence to the word used.

The Chief Judge concluded that this was not a word that was necessarily inappropriate to use.

17. Complaints that the JJP presiding in Traffic Court spoke to litigants in a condescending manner and indicated to some litigants that he was their "humble servant."

The audio recordings of proceedings were examined and the JJP was asked to meet with two Associate Chief Judges to canvass standards of conduct. While the JJP's conduct was designed to put litigants at ease and allow for an expeditious treatment of a large case list, the comments appeared to be unnecessary and condescending.

18. The complainant was a self-represented litigant in a multiple-day Family trial. The complainant alleged that during the early days of the trial, the Judge caused the complainant "to have a breakdown" and that the Judge had "yelled" at the complainant several times, bringing the complainant to tears and making the complainant "feel incompetent."

Review of the audio recording of proceedings did not support the complainant's assertions. The Judge intervened from time to time with questions of clarification and directions regarding the relevancy of evidence presented. Such interventions and directions are an important responsibility of a Judge to ensure that the Judge understands the evidence being presented and that the evidence remains relevant to issues the Judge determines will be necessary to decide.

19. Complaint that the Judge spoke to a party loudly and cynically and that the Judge scoffed at the complainant, saying, "So that's it?" when the complainant described the incident giving rise to her claim.

Review of the audio recording of the proceeding did not support this description of the Judge's conduct. The Judge made firm determinations as to admissibility of evidence, but it is the Judge's responsibility to make such determinations and manage the trial process.

20. Complaint that the Judge wrongly reported the complainant as having uttered a threat during a Criminal Court proceeding. The complaint was that the Judge then later presided over an appearance of the accused on a Criminal matter.

The latter appearance was to consult with counsel to determine a trial date. The complainant raised an objection directly to the Judge about him dealing with the matter and the Judge accepted that objection. Instead of fixing a trial date, the Judge adjourned the matter to another Judge. These circumstances raise no issue of judicial conduct.

21. The complainant was the grandmother of children who were taken into the care of the Ministry of Child, Family and Community Services. The grandmother asserted that the Judge treated her and her daughter with disrespect and that he did not consider their evidence.

Review of the audio recording of proceedings did not support the complainant's assertions. The Judge treated the witnesses with respect when they were providing their evidence. While the Judge intervened from time to time regarding the relevancy of evidence being elicited by counsel for the daughter, such interventions were consistent with the responsibility of a Judge to determine the issues the Judge must decide and whether evidence is relevant to those issues.

22. Complaint by the manager of an apartment building, whose building was specifically identified by the Judge as the sort of place a proposed surety may end up living if the surety's son (the accused) does not comply with his bail.

Upon hearing of the complaint the Judge apologized without reservation. The Judge explained how in the two days immediately prior to his comment he presided over a particularly troubling aggravated assault case that arose at the apartment building in question. When he was later dealing with the surety, the apartment building came to mind as he was trying to explain the need to comply with the bail terms.

23. Complaint that the Judge at a trial interrupted the complainant from time to time with sharp comments and in ways that were frustrating.

The Chief Judge concluded the hearing could have proceeded in a manner that was less acrimonious and informed the Judge of that conclusion.

24. Complaint that the JJP refused to hear a disputant in a violation ticket matter because the JJP considered the disputant to be dressed inappropriately for a court proceeding. The JJP did not accept the disputant's offer to obtain some further clothing and return properly attired. The JJP also suggested that he would canvass others attending court that day to determine whether the disputant was properly dressed.

The JJP was informed that his dealings with the disputant were inappropriate. The JJP apologized for what occurred that day. In addition, the JJP was required to attend a meeting with two Associate Chief Judges to review their concerns.

25. Complaint that the Judge, during a three-day trial, did not allow the complainant to have her say in court on a Family matter.

Review of the audio recording of proceedings did not support the complainant's assertions.

26. Complaint that the Judge coached the evidence of one party in a contested child support case. Both parties were self-represented.

Review of the audio recording of proceedings did not support the complainant's assertions. The Judge pursued information from both parties that she considered relevant to the matters she needed to decide.

27. Complaint that the Judge and the Court clerk laughed at the complainant as she was testifying about a very intimate and sensitive personal matter related to a sexual assault against her.

There was a moment during the complainant's testimony where Crown counsel and an unidentified source in the courtroom made a sound like a fleeting nervous laughter. It was not apparent it was the Judge who made this sound. It was a sound one might anticipate in a stressful situation to relieve the tension of the moment. It was not the sound of mocking or disrespectful laughter. There was no suggestion throughout the entire proceeding that anyone was acting disrespectfully and the Judge responded compassionately toward the complainant in her reasons for judgment.

28. Complaint that the Judge had fallen asleep during five minutes at the end of a day's hearing.

The Judge acknowledged in open court the next day the circumstances and declared a mistrial. He acknowledged that he had a personal problem and that he should have stood down the case earlier. The Judge perceived he may have some medical condition which contributed to this particular incident and he sought medical advice in that regard. Without diminishing the significance of a Judge falling asleep in court, as it was a serious matter, a single such occurrence did not call into question the Judge's fitness for judicial office. The manner in which the Judge dealt with the mistrial was an indication of his professionalism and his fitness for office, rather than the opposite. He was immediately prepared to accept full responsibility, he put the interest of justice ahead of all else and he was palpably considerate of the implications for everyone concerned.

29. Complaint that the Judge told a party in a contested Family proceeding to "keep quiet" and that the Judge then asked whether the party was "just out of jail?"

In responding to the complaint, the Judge indicated that he found the complainant during earlier court proceedings to be difficult, demanding, forceful and arrogant. The Judge acknowledged that he had become exasperated with the complainant, perhaps to the point that he was not as objective as he ought to be in regard to the case. For that reason, the Judge had, shortly after the most recent appearance, indicated to the Court staff that the complainant would benefit from having another Judge hear his matters. In light of the Judge's acknowledgement and decision to recuse himself from further dealings with the complainant, the complaint file was closed.

30. Complaint that the Judge during a Family proceeding told the complainant that he should read a book "pertaining to the superiority of mothers over fathers."

In response to the complaint, the Judge acknowledged that his remarks offended and upset the complainant, for which the Judge apologized. In light of the apology, and the guidance the Judge took from this complaint, the complaint file was closed.

31. Complaint that a Court Services Justice of the Peace (CSJP) had issued a warrant for non-attendance in court despite the CSJP knowing the complainant had attended court as scheduled on the day in question and had left after being told court was cancelled.

The Chief Judge did not have authority to review the merits or correctness of judicial decisions such as whether a warrant was required in this particular instance.

COMPLAINT EXAMINATION SUMMARIES – 2008

1. Complaint by the husband in an acrimonious family dispute that, according to his ex-spouse, the ex-spouse had told him she talked to the presiding Judge outside of court about their case.

The Judge asserted unequivocally that he had never spoken to the mother outside of court. The Chief Judge noted in replying to the complainant that he would be very surprised to hear he had done so as Judges are exceptionally sensitive to the risks and impropriety of speaking to litigants outside of court. In the absence of any independent evidence of such misconduct, the Chief Judge took no further action.

2. Complaint that there was a difference between the transcript of reasons for judgment and what was said in court, suggesting the Judge had inappropriately edited the judgment.

The Chief Judge examined the transcript with the audio recording of the reasons for judgment and noted that there were differences between the two. The Chief Judge noted that the practice of the Court is to reserve to Judges the opportunity to review the written record of oral reasons for judgment and to edit as to grammar and form, provided that the conclusions reached in the case are not altered. Any changes made by the Judge to the transcript did not fall outside the permissible editing process.

3. Complaint by a self-represented party in a family maintenance matter that the Judge engaged in "a severe abuse of power" and undertook a "loud attack" on the complainant, "basically tearing a strip off" the complainant.

Review of the audio recording of the proceedings did not support the assertions made about the Judge's conduct. The Judge was seeking to resolve outstanding disputes in a consensual manner. The audio recording of proceedings showed that the Judge calmly explained the various compromises that were being made by each party and he encouraged those compromises.

4. Complaint that the Judicial Justice of the Peace (JJP) was biased and took the side of the police officer/prosecutor.

Review of the audio recording of the proceedings did not support the assertion made about the JJP's conduct. The JJP provided the parties with an opportunity to submit evidence and to cross-examine witnesses who were adverse in interest. The hearing was fair and balanced, but in light of the conflict of evidence, the JJP was required to reach a conclusion as to the evidence believed. Such decisions do not raise an issue of judicial conduct.

5. Complaint that the Judge was unduly interrupting counsel in a child custody case after the Judge suggested counsel was advocating positions not supported by the evidence. The Judge said she would continue to interrupt in such circumstances.

The Judge acknowledged that she was impatient and sharp-toned in dealing with counsel for the complainants and she acknowledged that she should not have allowed her tone and behaviour to reflect the adverse conclusions she reached about counsel's client in the case. The Judge accepted that her conduct at times was different than the ideal to which Judges strive. The Chief Judge concluded the Judge was alive and responsive to the conduct issue.

6. Complaint that the JJP presiding on a violation ticket matter was "very unprofessional and unbecoming" of a JJP and that the JJP became very upset, accused the complainant of lying without justification, and stated that the complainant was wasting her time.

Review of the audio recording of the proceedings did not support a suggestion of judicial misconduct. At the end of the trial, the JJP found the complainant guilty of the offence, concluding that she questioned his credibility based on the evidence heard at the trial. The complainant immediately expressed disagreement in court with the JJP's decision, after which a certain amount of tension could be detected in exchanges between the complainant and the JJP. The JJP then brought the hearing to an appropriate conclusion.

7. Complaint that the Judge made an order in a Family case restraining contact between a third-party friend of a party and the child at issue in the proceeding. The order was made without providing that third-party with notice or an opportunity to be heard at the hearing of the application.

The Chief Judge had no authority to review the merits or correctness of such decisions, the correctness of which can only be reviewed by appeal to, or review by, a higher court.

8. Complaint by a party in a Small Claims proceeding that she had been denied an opportunity to make oral submissions on her application for default judgment.

Review of the audio recording of proceedings did not support this assertion. The Judge considered the submissions made by the complainant in support of a default order.

9. Complaint that the JJP considering a violation ticket proceeding addressed the complainant in a disrespectful manner and that the JJP had talked down to the complainant as if he were "a 14-year-old child who misbehaved."

Throughout the proceedings the complainant stressed the view that he needed to speed on his motorcycle on this occasion. The JJP found the complainant guilty and dismissed the defence of necessity. The JJP, in his reasons for judgment, commented adversely upon the complainant's driving. While the JJP's comments may have been more stern than the complainant felt necessary or appropriate, they did not show judicial misconduct.

10. Complaint that the Judge presiding at a settlement conference expressed a cavalier attitude and did not permit the party to give explanations.

The Judge responded to the complaint by noting that it was difficult to focus the complainants on the necessity to provide evidence of their loss in the Civil action. The Judge recalled having to be firm with the complainants in attempting to keep the discussions relevant. Such circumstances do not constitute judicial misconduct.

11. Complaint that the Judge threatened to send a litigant to jail for swearing, when the litigant had Tourette's Syndrome and could not help swearing.

Review of the audio recording of proceedings did not support the complainant's assertion. There was discussion of the litigant's disability at the hearing and difficulties the litigant encountered elsewhere. Judge was calm throughout, and certainly never threatened to send the litigant to jail.

12. Complaint that the Judge was callous and intimidating while presiding over this Small Claims matter and that the Judge would not accept documents submitted by the complainant.

It is not uncommon in cases dealing with self-represented litigants for the Judge to engage in questioning of the parties to elicit information that would be helpful to the Judge in addressing relevant issues. The complainant was provided a full opportunity to submit evidence and was not prevented from submitting documents. There was no basis to suggest the Judge acted in an inappropriate manner.

13. Complaint that the Justice of the Peace Adjudicator (JPA) pressed a party too hard to accept a compromise of her claim during mediation.

JPAs are provided authority in a Court pilot project to mediate Civil claims under $5,000 and, failing resolution, to impose a judgment. The JPA expressed the clear view that the compromise reached was the best that could be expected for the complainant in the circumstances and based on the law. These circumstances do not raise any conduct issues.

14. Complaint that the Judge, during sentencing after a guilty plea to theft over $5,000 from offender's employer, said the offender's subsequent assignment into bankruptcy was "a shabby attempt to duck your responsibility to your employer whom you cheated over three years."

While the comment about bankruptcy greatly upset the complainant who believed the comment was not justified, judges are entitled to draw conclusions they believe are appropriate from the evidence before them.

15. Complaint that counsel for one party had prior access to the Judge before the beginning of the settlement conference. Further, it was alleged that the Judge did not review the complainant's caselaw or allow the complainant to submit documents.

The Judge knew the name of the lawyer without having to be introduced. It was apparent this caused the complainant to believe there was prior access when there had not been. Regarding review of documents and caselaw presented, a settlement conference Judge (who will not be the trial Judge) is not expected to review the relevant documents and caselaw in detail and determine what ultimately would be decided at a trial. A Judge is working in a limited timeframe at a settlement conference and is expected to make judgment calls as to what information will or will not assist the conduct of a particular settlement conference.

16. Complaint that the Judge presiding over an appearance in a Criminal proceeding made a comment suggesting that the justice system was a system of chance.

The audio recording of the proceedings was reviewed without indication of such a comment by the presiding Judge.

17. Complaint by a party with a small degree of Alzheimer's that the Judge would not receive and read a letter from that party's doctor which contained a full explanation of his condition and the accommodations he would need for the court proceeding.

The Judge responded to the complaint by indicating that the reason she did not accept the letter was that she had no doubt the complainant required accommodation and she was pleased to provide it; she was concerned that if the letter was received it would need to be shared with the other party together with the personal medical information it contained.

18. Complaint that the Judge presiding over a settlement conference regarding a Civil claim for payment of funeral expenses against the adult daughter of the deceased quickly expressed the view that the daughter carried some responsibility. The adult daughter and her spouse accused the Judge of acting "unprofessionally, with malice and prejudice."

The Judge's recollection of the settlement conference and that of the complainant were significantly different. In the absence of a tape-recorded settlement conference, it could not be concluded what exactly occurred. When the complainant was informed of this, she was pleased about how seriously the complaint was taken and was prepared to leave it on the basis that there were two very different interpretations of what occurred.

19. The Judge and the complainant were neighbours who developed a conflict over the noise associated with the complainant's construction of his new house. The complainant alleged the Judge confronted him and "bullied" him, and attempted to use her office to threaten him in order that he change his construction practices.

The Judge vehemently denied the alleged conduct. The Chief Judge could not discern what was or was not said or done in the single confrontation, and so determined there could be no determination of whether there had or had not been any misconduct. This conclusion was reported to the complainant and the Judge.

20. Complaint that Traffic Court proceedings on a specific day began approximately 70 minutes after the scheduled 9:30 am start time due to the late arrival of the presiding JJP to the courthouse.

The JJP apologized for her tardiness both at the time it occurred and in response to the complaint. This was the first time in 12 years as a JJP that she was mistaken as to which courthouse she was intended to preside at that day. The respective courthouses are over 100 km apart. The circumstances did not suggest any misconduct.

21. Complaint that the per diem JJP was working on matters related to his own private legal practice at a time when he had been asked by staff to consider a new search warrant application received at the Justice Centre.

There had been a miscommunication and the work that delayed consideration of the Justice Centre matter was research the JJP was conducting in relation to his judicial functions. Accordingly, the complaint was dismissed.

22. Complaint that the Judge in a long Small Claims matter was heavy-handed, angry, impatient and rude from time to time toward her during the course of the proceedings.

The claimant, who was self-represented, lacked focus in presentation of her case and had a confrontational manner. There were clearly moments where the Judge's patience was strained by the claimant's significant number of interruptions. After one particular interruption, the Judge clearly lost his temper, abruptly said he was "fed up" with the claimant's interruptions. Approximately two minutes later the Judge reconvened the proceedings and apologized. He advised the claimant that she was rude, that she interrupted and that she was barely able to control herself, but he appropriately acknowledged that this did not provide him the right to lose his temper as he did and he fully apologized. The Judge provided the claimant with significant latitude in the presentation of her case and assistance in trying to draw out evidence relevant to the matters before him. On review of the matter, it could not fairly be suggested that the Judge misconducted himself.

23. Complaint that the Judge at a Small Claims settlement conference made a "gross error in law" when suggesting who should be sued when naming a partnership.

The complainant was informed that settlement conferences provide an opportunity for parties to hear a Judge's general view of the strengths and weaknesses of a particular case. But such comments are not binding on the different Judge who will subsequently preside at any trial of the matter.

24. Complaint about the lack of sensitivity of the JJP in Traffic Court who granted an adjournment to an absent disputant on the application of the disputant's mother. The disputant had attended the funeral of a close friend the day before in the interior of the province and the mother had asked her son not to make the long drive to Vancouver to attend the trial. The mother had also explained that the sibling of the son had died in an accident earlier. In granting the adjournment the JJP stated, "If he's not at his own funeral the next time, the case goes ahead."

The JJP's comment was very unfortunate, particularly as the mother had noted moments before that she had already lost a son. While this may have been some awkward attempt at humour by the JJP, the comment showed a regrettable lack of sensitivity to the family circumstances of the individual appearing before the JJP. The JJP apologized and the complaint file was closed on that basis.

25. Complaint that the Judge in a Small Claims trial inappropriately restricted the complainant's questions and evidence he could submit.

Review of the audio recording of the proceeding did not support the complainant's assertions. The complainant was given ample opportunity to provide evidence he believed was relevant to his case. However, it is an important responsibility of the Judge to ensure that evidence submitted is clear and relevant to the matter at issue. Further, a Judge is entitled to interrupt witnesses to gain clarification of evidence being heard.

26. Complaint that the Judge in a Family proceeding used such words as "preposterous" in describing the father's position, suggesting the father was "pouting" on the witness stand, and that he was like a "deadbeat dad." The Judge ultimately made a decision in the case against the father.

The complaint was a very useful reminder to the Judge about the importance of language and expressing negative conclusions, and the desirability of maintaining respect and dignity in dealing with litigants whose position the Judge finds untenable. The complaint file was closed on that basis.

27. Complaint that the Judge presiding over a Criminal matter attempted to intimidate a self-represented accused by suggesting how much power he had as the Judge.

Review of the audio recording of proceedings did not support the complainant's assertions. The complainant had been aggressive and accusatorial in speaking with the Judge who calmly tried to determine the reasons for such aggressive conduct. As such interaction continued, the Judge informed the complainant and Crown counsel that he would not preside on the case since the complainant was wanting a fight and the Judge was not interested in such a fight.

28. Complaint that the Judge treated a lawyer badly when the lawyer advised the Judge that, for health reasons, she could only schedule half-day court hearings in a matter that had some urgency and several days of trial scheduled.

The Chief Judge met with the complainant as well as the Judge and accepted how distressing the lawyer found her interaction to be with the Judge. The Judge regretted the exchange he had with the lawyer. The Chief Judge sought to facilitate a meeting between himself, the Judge and the complainant to assist in resolving the complainant's concerns. The complainant was reluctant to undertake such a meeting. The meeting never occurred.

However, a practice direction was later issued by the Chief Judge related to "Access to the Court for Lawyers and Articled Students Who Have a Disability". In addition, an educational session was conducted with Judicial Case Managers of the Court with respect to accommodations related to disabilities. The complaint was closed on that basis and the complainant was so informed.

COMPLAINT EXAMINATION SUMMARIES – 2009

1. Complaint by a party of a Simplified Trial before a Justice of the Peace Adjudicator (JPA) that the JPA was "biased, unprepared and had come to court with certain presumptions."

The JPA was not originally scheduled to hear the specific case and thus was unable to review the trial material filed in advance of the hearing. Review of the audio recording of the proceeding did not support the complainant's assertions.

2. Complaint by a police officer who acted as prosecutor in a bail hearing before a Judicial Justice of the Peace (JJP) that the JJP lacked an understanding of section 524 of the Criminal Code.

The audio recording of proceedings was reviewed and it was apparent there was no evidence upon which the JJP could have reached the conclusion she did. The JJP met with a Legal Officer of the Court for further education with respect to section 524 of the *Criminal Code*.

3. Complaint that the JJP in a traffic ticket case did not provide a party with an opportunity to provide evidence or submissions.

The disputant pleaded guilty to the offence and in considering sentence, the JJP did not ask the disputant if he had any submissions. The JJP moved directly to sentencing, reducing the fine from a ticketed amount of $167 to an amount of $92. It would have been preferable for the JJP to have asked whether there was anything the disputant wished to say about the incident. However, the JJP's failure to do so in the circumstances, where the offence was admitted, the prosecutor was seeking a reduced fine, and a reduced fine was ultimately imposed, did not raise an issue of conduct.

4. Complaint that the Court Services Justice of the Peace (CSJP) at the Court registry, eight years earlier, acted in an unprofessional manner by "choosing sides" and that she directed "a barrage of criticisms" toward the complainant who was attending at the registry to file documents. The complainant also asserted that the CSJP photocopied documents for her but then "threw them" in her face and told her to "get out of here."

The CSJP denied the complainant's accusations. There was no apparent means to resolve the differing recollections and no reason to doubt the credibility of either person. The complaint could not, therefore, proceed further.

5. Complaint that the Judge in a Small Claims matter acted without decorum, politeness or civility.

Review of the audio recording of the proceedings did not support the complainant's assertions.

6. A federal Crown counsel passed on statements made by an individual convicted of offences regarding the Judge who presided at sentencing. The offender asserted that he knew the Judge "on somewhat of a personal level" prior to his sentencing and that he had saved the Judge's daughter from what might have been a possible suicide attempt in 2005. The correctional facility officer who originally received this information questioned the veracity of the offender's statements.

The Judge was provided a copy of the information provided through the federal Crown counsel. The Judge advised that he never met and did not know the offender prior to his trial. In light of that information, together with the information from the correctional facility regarding the offender's veracity, the complaint was dismissed.

7. Complaint that the Judge would not deal with the merits of a child access case since the mother was applying by telephone from another province.

The Judge was concerned whether the proceeding could be effectively conducted by telephone when evidence would be in contest. A Judge presiding over a hearing has control over the process by which the hearing is conducted and it is within a Judge's discretion to decide that a proceeding cannot continue when one of the parties is only appearing by telephone.

8. Complaint that the JJP in a Traffic violation case showed favouritism to the prosecuting police constable and was "visibly displeased" with the disputant.

Review of the audio recording of proceedings did not support the complainant's assertions. The disputant sought to cross-examine the police officer with respect to the accuracy of a laser device used to calculate automobile speed. The JJP considered the constable had sufficiently answered the questions about accuracy and she intervened into the disputant's cross-examination to have him move onto other points. It is appropriate for judicial officers to control the cross-examination of witnesses to ensure that it is not unduly repetitious and remains relevant to an issue the judicial officer needs to decide.

9. Complaint that the Judge in a Small Claims case acted "unfairly" and was "favouring the other side."

Review of the audio recording of proceedings did not support the complainant's assertions. The Judge took the time to consider the matter and reached the conclusion based on the evidence.

10. Complaint that the Judge in a Small Claims trial with unrepresented litigants used a trial process of questioning both parties at the same time and narrowing the issues in dispute. In addition, the complainant suggested the Judge was "quite harsh" when dealing with her and that the Judge was abrupt and had "an inappropriate demeanour and ... unprofessional manner in handling this case."

Review of the audio recording of proceedings did not support any suggestion of an inappropriate manner or misconduct. Further, the procedure adopted by the Judge is not uncommon when neither party is represented by counsel.

11. Complaint that the Judge was "yelling" at the father on a number of occasions during a Family Court proceeding where the amount for maintenance required of the father was being considered as well as arrears in support.

The Judge pressed the father significantly during the proceedings regarding what efforts to earn income were being made, but they could not be fairly characterized as "yelling" at the father. The father may have experienced it as more aggressive than it was. While the Judge was forceful in dealing with the matter, his actions were understandable in context

and were not outside the range of appropriate conduct for a Judge seeking to ensure that maintenance levels were fairly established.

12. Complaint that the Judge in a Small Claims contract dispute expressed frustration with the lack of helpful evidence. At one point the complainant expressed his own frustration with the proceedings, suggesting that he would quit while he was ahead and that "this is a joke." This resulted in a particularly terse exchange with the Judge, and the Judge directing the clerk to bring a Sheriff into the courtroom.

The Judge acknowledged that he would have preferred handling the trial better and that he did not treat the complainant in as judicial a manner as appropriate. Regarding the comment about "a joke" the Judge was understandably taken aback by what he perceived to be an insult to the Court and its process. Despite such instances of tense interaction, the proceeding quickly calmed down and the Judge provided each party with a full opportunity to explain themselves and present information. In light of the Judge's acknowledgement, no further action was taken by the Chief Judge.

13. Complaint by the party to a Simplified Trial under Rule 9.1 of the Small Claims Rules that he thought the JPA had "made up his mind" before the party had an opportunity to defend himself.

JPAs presiding over Simplified Trials spend considerable time in advance of the trial reviewing material filed by the parties, as required under the Rules. The Rules also contemplate that the JPA will canvass any possibility of settlement before proceeding to the merits of the trial. With this information from the parties, and relying upon their accumulated experience in dealing with disputes, JPAs will likely have developed some tentative views as to the merits of the claims. It is therefore not surprising, and in fact anticipated, that the JPA would express tentative views as to the merits of each party's case during the mediation efforts. These circumstances do not raise an issue of conduct.

14. Complaint that the Judge in a Civil commercial dispute said near the end of proceedings that what he was hearing from both parties was "sickening" and that the two parties were acting "like animals." The Judge also commented adversely on the credibility of the complainant.

It is appropriate for a Judge to express concerns from the evidence concerning the credibility of a party. However, the Judge lapsed briefly into unnecessarily strong language in expressing his conclusions. In response to this complaint, the Judge acknowledged that those words ought not to have been said and he apologized for them. Review of the entire

proceeding that day indicated this was a brief departure from what was otherwise a balanced hearing where the parties were treated in a respectful manner.

15. Complaint by the self-represented party in a Small Claims matter that the Judge did not allow the party to submit evidence or respond to contrary evidence.

The complainant had an obligation under an existing order to make a payment to the claimant. The Judge would not allow the complainant to challenge the existing order as that could only occur by way of an appeal to, or review by, a higher court. The Judge exercised considerable patience while the complainant was not prepared to depart from the view that the original order of the Court by another Judge was incorrect. No issue of conduct arose in this case.

16. Complaint that the Judge in a Small Claims matter was "demeaning and disrespectful" and that the Judge "muzzled" the complainant.

Review of the audio recording of proceedings did not support the complainant's assertions. The Judge provided a full opportunity for the complainant to explain the basis of his adjournment application. The Judge placed a limit on the complainant's ability to respond to the submissions of the other party, indicating that those submissions did not require a response. It cannot be suggested that the Judge spoke to the complainant in a demeaning or disrespectful manner.

17. Complaint by the mother in a Family dispute that the Judge threatened loss of custody of her child if she contacted the police about the actions of her estranged spouse.

After reviewing the evidence before her, the Judge told the complainant that she would need to change her behaviour and attitude regarding the father's access to the child or else risk losing joint custody of her son. The Judge referenced earlier police involvement and indicated that if a party was going to involve the police they should first have a good reason to do so. Such comments cannot be fairly be characterized as a threat about contacting the police for legitimate reasons. No issue of conduct arose in this case.

18. Complaint that the Judge who convicted the complainant was very rude, disrespectful and degrading, and that he used "abusive language and degrading means of accusation."

Review of the audio recording of proceedings did not support the complainant's assertions. The Judge had concluded on the evidence that the complainant was not a believable witness, indicating that the evidence of the accused was a "ludicrous story in the extreme." Judges are provided wide latitude to express their decisions. While Judges should avoid using abusive and demeaning language, this does not suggest the Judge cannot frankly state the strength of their conclusions regarding the credibility of a person's evidence. No issue of conduct arose in this case.